

BOARD MEMBER'S HANDBOOK  
**APPENDIX A**

**REVISED CODE OF WASHINGTON (RCW)  
AND WASHINGTON ADMINISTRATIVE CODE (WAC)**

**Relating to  
STATE INVESTMENT BOARD**

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## **Chapter 42.20 RCW MISCONDUCT OF PUBLIC OFFICERS**

### **SECTIONS**

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Cities and towns, commission form, misconduct of officers and employees: RCW 35.17.150.

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State treasurer, embezzlement: RCW 43.08.140.

Subversive activities, disqualification from holding public office: RCW 9.81.040.

Utilities and transportation commission members and employees, interest in regulated companies prohibited: RCW 80.01.020.

## **RCW 42.20.020**

### **Powers may not be delegated for profit.**

Every public officer who, for any reward, consideration or gratuity paid or agreed to be paid, shall, directly or indirectly, grant to another the right or authority to discharge any function of his office, or permit another to perform any of his duties, shall be guilty of a gross misdemeanor.

[1909 c 249 § 83; RRS § 2335.]

### **NOTES:**

**Reviser's note:** Caption for 1909 c 249 § 83 reads as follows: "Sec. 83. *Grant of Official Powers.*"

**RCW 42.20.030****Intrusion into and refusal to surrender public office.**

Every person who shall falsely personate or represent any public officer, or who shall wilfully intrude himself into a public office to which he has not been duly elected or appointed, or who shall wilfully exercise any of the functions or perform any of the duties of such officer, without having duly qualified therefor, as required by law, or who, having been an executive or administrative officer, shall wilfully exercise any of the functions of his office after his right to do so has ceased, or wrongfully refuse to surrender the official seal or any books or papers appertaining to such office, upon the demand of his lawful successor, shall be guilty of a gross misdemeanor.

[1909 c 249 § 84; RRS § 2336.]

**NOTES:**

Impersonating a public officer: RCW 9A.60.040.

Quo warranto: Chapter 7.56 RCW.

**RCW 42.20.040****False report.**

Every public officer who shall knowingly make any false or misleading statement in any official report or statement, under circumstances not otherwise prohibited by law, shall be guilty of a gross misdemeanor.

[1909 c 249 § 98; RRS § 2350.]

**RCW 42.20.050****Public officer making false certificate.**

Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing containing any statement which he knows to be false, in a case where the punishment thereof is not expressly prescribed by law, shall be guilty of a gross misdemeanor.

[1909 c 249 § 128; RRS § 2380.]

**RCW 42.20.060****Falsely auditing and paying claims.**

Every public officer, or person holding or discharging the duties of any public office or place of trust under the state or in any county, town or city, a part of whose duty it is to audit, allow or pay, or take part in auditing, allowing or paying, claims or demands upon the state or such county, town or city, who shall knowingly audit, allow or pay, or, directly or indirectly, consent to or in any way connive at the auditing, allowance or payment of any claim or demand against the state or such county, town or city, which is false or fraudulent or contains any charge, item or claim which is false or fraudulent, shall be guilty of a gross misdemeanor.

[1909 c 249 § 129; RRS § 2381.]

**RCW 42.20.070****Misappropriation and falsification of accounts by public officer.**

\*\*\* CHANGE IN 2003 \*\*\* (SEE 5758.SL) \*\*\*

Every public officer, and every other person receiving money on behalf or for or on account of the people of the state or of any department of the state government or of any bureau or fund created by law in which the people are directly or indirectly interested, or for or on account of any county, city, town, or any school, diking, drainage, or irrigation district, who:

- (1) Shall appropriate to his or her own use or the use of any person not entitled thereto, without authority of law, any money so received by him or her as such officer or otherwise; or
- (2) Shall knowingly keep any false account, or make any false entry or erasure in any account, of or relating to any money so received by him or her; or
- (3) Shall fraudulently alter, falsify, conceal, destroy or obliterate any such account; or
- (4) Shall willfully omit or refuse to pay over to the state, its officer or agent authorized by law to receive the same, or to such county, city, town, or such school, diking, drainage, or irrigation district or to the proper officer or authority empowered to demand and receive the same, any money received by him or her as such officer when it is a duty imposed upon him or her by law to pay over and account for the same,

shall be punished by imprisonment in a state correctional facility for not more than fifteen years.

[1992 c 7 § 37; 1909 c 249 § 317; RRS § 2569. Prior: Code 1881 § 890; 1873 p 202 § 92; 1854 p 91 § 83.]

**RCW 42.20.080****Other violations by officers.**

Every officer or other person mentioned in RCW [42.20.070](#), who shall wilfully disobey any provision of law regulating his official conduct in cases other than those specified in said section, shall be guilty of a gross misdemeanor.

[1909 c 249 § 318; RRS § 2570.]

**RCW 42.20.090****Misappropriation, etc., by treasurer.**

\*\*\* CHANGE IN 2003 \*\*\* (SEE 5758.SL) \*\*\*

Every state, county, city, or town treasurer who willfully misappropriates any moneys, funds, or securities received by or deposited with him or her as such treasurer, or who shall be guilty of any other malfeasance or willful neglect of duty in his or her office, shall be punished by imprisonment in a state correctional facility for not more than five years or by a fine of not more than five thousand dollars.

[1992 c 7 § 38; 1909 c 249 § 319; RRS § 2571.]

**NOTES:**

County treasurer, suspension for misconduct: RCW 36.29.090.

State treasurer, embezzlement: RCW 43.08.140.

**RCW 42.20.100****Failure of duty by public officer a misdemeanor.**

Whenever any duty is enjoined by law upon any public officer or other person holding any public trust or employment, their wilful neglect to perform such duty, except where otherwise specially provided for, shall be a misdemeanor.

[1909 c 249 § 16; RRS § 2268. Prior: Code 1881 § 889; 1854 p 90 § 82.]

**NOTES:**

Official misconduct by public servant: RCW 9A.80.010.

**RCW 42.20.110****Improper conduct by certain justices.**

It shall be a misdemeanor for any judge or justice of any court not of record, during the hearing of any cause or proceeding therein, to address any person in his presence in unfit, unseemly or improper language.

[1911 c 115 § 1; RRS § 2696-1.]

## Chapter 42.30 RCW OPEN PUBLIC MEETINGS ACT

### SECTIONS

42.30.010 Legislative declaration.

42.30.020 Definitions.

42.30.030 Meetings declared open and public.

42.30.040 Conditions to attendance not to be required.

42.30.050 Interruptions -- Procedure.

42.30.060 Ordinances, rules, resolutions, regulations, etc., adopted at public meetings -- Notice -- Secret voting prohibited.

42.30.070 Times and places for meetings -- Emergencies -- Exception.

42.30.075 Schedule of regular meetings -- Publication in state register -- Notice of change -- "Regular" meetings defined.

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42.30.200 Governing body of recognized student association at college or university -- Chapter applicability to.

42.30.210 Assistance by attorney general.

42.30.900 Short title.

42.30.910 Construction -- 1971 ex.s. c 250.

42.30.920 Severability -- 1971 ex.s. c 250.

### NOTES:

Drug reimbursement policy recommendations: RCW 43.20A.365.

### RCW 42.30.010

#### **Legislative declaration.**

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they

may retain control over the instruments they have created.

[1971 ex.s. c 250 § 1.]

## NOTES:

**Reviser's note:** Throughout this chapter, the phrases "this act" and "this 1971 amendatory act" have been changed to "this chapter." "This act" [1971 ex.s. c 250] consists of this chapter, the amendment to RCW 34.04.025, and the repeal of RCW 42.32.010 and 42.32.020.

### RCW 42.30.020

#### Definitions.

As used in this chapter unless the context indicates otherwise:

(1) "Public agency" means:

(a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;

(b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;

(d) Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.

(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

(4) "Meeting" means meetings at which action is taken.

[1985 c 366 § 1; 1983 c 155 § 1; 1982 1st ex.s. c 43 § 10; 1971 ex.s. c 250 § 2.]

## NOTES:

**Severability -- Savings -- 1982 1st ex.s. c 43:** See notes following RCW 43.52.374.



**RCW 42.30.030****Meetings declared open and public.**

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

[1971 ex.s. c 250 § 3.]

**RCW 42.30.040****Conditions to attendance not to be required.**

A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his attendance.

[1971 ex.s. c 250 § 4.]

**RCW 42.30.050****Interruptions -- Procedure.**

In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting.

[1971 ex.s. c 250 § 5.]

**RCW 42.30.060****Ordinances, rules, resolutions, regulations, etc., adopted at public meetings -- Notice -- Secret voting prohibited.**

(1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.

[1989 c 42 § 1; 1971 ex.s. c 250 § 6.]

**RCW 42.30.070****Times and places for meetings -- Emergencies -- Exception.**

The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body. Unless otherwise provided for in the act under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a meeting site other than the regular meeting site and the notice requirements of this chapter shall be suspended during such emergency. It shall not be a violation of the requirements of this chapter for a majority of the members of a governing body to travel together or gather for purposes other than a regular meeting or a special meeting as these terms are used in this chapter: PROVIDED, That they take no action as defined in this chapter.

[1983 c 155 § 2; 1973 c 66 § 1; 1971 ex.s. c 250 § 7.]

### **RCW 42.30.075**

#### **Schedule of regular meetings -- Publication in state register -- Notice of change -- "Regular" meetings defined.**

State agencies which hold regular meetings shall file with the code reviser a schedule of the time and place of such meetings on or before January of each year for publication in the Washington state register. Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date.

For the purposes of this section "regular" meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule.

[1977 ex.s. c 240 § 12.]

#### **NOTES:**

**Effective date -- Severability -- 1977 ex.s. c 240:** See RCW 34.08.905 and 34.08.910.

Public meeting notices in state register: RCW 34.08.020.

### **RCW 42.30.080**

#### **Special meetings.**

A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body; and to each local newspaper of general circulation and to each local radio or television station which has on file with the governing body a written request to be notified of such special meeting or of all special meetings. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the governing body a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or

damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

[1971 ex.s. c 250 § 8.]

### **RCW 42.30.090**

#### **Adjournments.**

The governing body of a public agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He shall cause a written notice of the adjournment to be given in the same manner as provided in RCW [42.30.080](#) for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

[1971 ex.s. c 250 § 9.]

### **RCW 42.30.100**

#### **Continuances.**

Any hearing being held, noticed, or ordered to be held by a governing body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the governing body in the same manner and to the same extent set forth in RCW [42.30.090](#) for the adjournment of meetings.

[1971 ex.s. c 250 § 10.]

### **RCW 42.30.110**

#### **Executive sessions.**

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(A) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(B) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(C) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive

session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

[2001 c 216 § 1; 1989 c 238 § 2; 1987 c 389 § 3; 1986 c 276 § 8; 1985 c 366 § 2; 1983 c 155 § 3; 1979 c 42 § 1; 1973 c 66 § 2; 1971 ex.s. c 250 § 11.]

## **NOTES:**

**Severability -- Effective date -- 1987 c 389:** See notes following RCW 41.06.070.

**Severability -- 1986 c 276:** See RCW 53.31.901.

### **RCW 42.30.120**

#### **Violations -- Personal liability -- Penalty -- Attorney fees and costs.**

(1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

(2) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. Pursuant to RCW 4.84.185, any public agency who prevails in any action in the courts for a violation of this chapter may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause.

[1985 c 69 § 1; 1973 c 66 § 3; 1971 ex.s. c 250 § 12.]

### **RCW 42.30.130**

#### **Violations -- Mandamus or injunction.**

Any person may commence an action either by mandamus or injunction for the purpose of stopping violations or preventing threatened violations of this chapter by members of a governing body.

[1971 ex.s. c 250 § 13.]

### **RCW 42.30.140**

#### **Chapter controlling -- Application.**

If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4)(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or  
(b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

[1990 c 98 § 1; 1989 c 175 § 94; 1973 c 66 § 4; 1971 ex.s. c 250 § 14.]

## NOTES:

**Effective date -- 1989 c 175:** See note following RCW 34.05.010.

Drug reimbursement policy recommendations: RCW 43.20A.365.

Mediation testimony competency: RCW 5.60.070 and 5.60.072.

## **RCW 42.30.200**

### **Governing body of recognized student association at college or university -- Chapter applicability to.**

The multimember student board which is the governing body of the recognized student association at a given campus of a public institution of higher education is hereby declared to be subject to the provisions of the open public meetings act as contained in this chapter, as now or hereafter amended. For the purposes of this section, "recognized student association" shall mean any body at any of the state's colleges and universities which selects officers through a process approved by the student body and which represents the interests of students. Any such body so selected shall be recognized by and registered with the respective boards of trustees and regents of the state's colleges and universities: PROVIDED, That there be no more than one such association representing undergraduate students, no more than one such association representing graduate students, and no more than one such association representing each group of professional students so recognized and registered at any of the state's colleges or universities.

[1980 c 49 § 1.]

## **RCW 42.30.210**

### **Assistance by attorney general.**

The attorney general's office may provide information, technical assistance, and training on the provisions of this chapter.

[2001 c 216 § 2.]

## **RCW 42.30.900**

**Short title.**

This chapter may be cited as the "Open Public Meetings Act of 1971".

[1971 ex.s. c 250 § 16.]

**RCW 42.30.910****Construction -- 1971 ex.s. c 250.**

The purposes of this chapter are hereby declared remedial and shall be liberally construed.

[1971 ex.s. c 250 § 18.]

**RCW 42.30.920****Severability -- 1971 ex.s. c 250.**

If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1971 ex.s. c 250 § 19.]

## Chapter 42.32 RCW MEETINGS

### SECTIONS

[42.32.030](#) Minutes.

### NOTES:

Drug reimbursement policy recommendations: RCW 43.20A.365.

Open Public Meetings Act: Chapter 42.30 RCW.

### RCW 42.32.030

#### Minutes.

The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection.

[1953 c 216 § 3.]

### NOTES:

**Reviser's note:** RCW [42.32.010](#) and [42.32.020](#) were repealed by 1971 ex.s. c 250 § 15; later enactment, see chapter 42.30 RCW.



## **Chapter 42.52 RCW ETHICS IN PUBLIC SERVICE**

### **SECTIONS**

- [42.52.010](#) Definitions.
- [42.52.020](#) Activities incompatible with public duties.
- [42.52.030](#) Financial interests in transactions.
- [42.52.040](#) Assisting in transactions.
- [42.52.050](#) Confidential information -- Improperly concealed records.
- [42.52.060](#) Testimony of state officers and state employees.
- [42.52.070](#) Special privileges.
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- [42.52.090](#) Limited assistance by former state officers and employees.
- [42.52.100](#) Conditions on appearance before state agencies or doing business with the state -- Hearing -- Judicial review.
- [42.52.110](#) Compensation for official duties or nonperformance.
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- [42.52.130](#) Honoraria.
- [42.52.140](#) Gifts.
- [42.52.150](#) Limitations on gifts.
- [42.52.160](#) Use of persons, money, or property for private gain.
- [42.52.170](#) Giving, paying, loaning, etc., any thing of economic value to state employee.
- [42.52.180](#) Use of public resources for political campaigns.
- [42.52.185](#) Restrictions on mailings by legislators.
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## **RCW 42.52.010**

### **Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch of state government. "Agency" includes all elective offices, the state legislature, those institutions of higher education created and supported by the state government, and those courts that are parts of state government.

(2) "Head of agency" means the chief executive officer of an agency. In the case of an agency headed by a commission, board, committee, or other body consisting of more than one natural person, agency head means the person or board authorized to appoint agency employees and regulate their conduct.

(3) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

(4) "Beneficial interest" has the meaning ascribed to it under the Washington case law. However, an ownership interest in a mutual fund or similar investment pooling fund in which the owner has no management powers does not constitute a beneficial interest in the entities in which the fund or pool

invests.

(5) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person.

(6) "Confidential information" means (a) specific information, rather than generalized knowledge, that is not available to the general public on request or (b) information made confidential by law.

(7) "Contract" or "grant" means an agreement between two or more persons that creates an obligation to do or not to do a particular thing. "Contract" or "grant" includes, but is not limited to, an employment contract, a lease, a license, a purchase agreement, or a sales agreement.

(8) "Ethics boards" means the commission on judicial conduct, the legislative ethics board, and the executive ethics board.

(9) "Family" has the same meaning as "immediate family" in RCW 42.17.020.

(10) "Gift" means anything of economic value for which no consideration is given. "Gift" does not include:

(a) Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the agency of which the recipient is an officer or employee;

(b) Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a state officer or state employee for coworkers;

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(e) Items a state officer or state employee is authorized by law to accept;

(f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

(g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under chapter 42.17 RCW;

(i) Discounts available to an individual as a member of an employee group, occupation, or similar

broad-based group; and

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

(11) "Honorarium" means money or thing of value offered to a state officer or state employee for a speech, appearance, article, or similar item or activity in connection with the state officer's or state employee's official role.

(12) "Official duty" means those duties within the specific scope of employment of the state officer or state employee as defined by the officer's or employee's agency or by statute or the state Constitution.

(13) "Participate" means to participate in state action or a proceeding personally and substantially as a state officer or state employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or otherwise but does not include preparation, consideration, or enactment of legislation or the performance of legislative duties.

(14) "Person" means any individual, partnership, association, corporation, firm, institution, or other entity, whether or not operated for profit.

(15) "Regulatory agency" means any state board, commission, department, or officer, except those in the legislative or judicial branches, authorized by law to conduct adjudicative proceedings, issue permits or licenses, or to control or affect interests of identified persons.

(16) "Responsibility" in connection with a transaction involving the state, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or through subordinates, effectively to approve, disapprove, or otherwise direct state action in respect of such transaction.

(17) "State action" means any action on the part of an agency, including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A grant, payment, award, license, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

(18) "State officer" means every person holding a position of public trust in or under an executive, legislative, or judicial office of the state. "State officer" includes judges of the superior court, judges of the court of appeals, justices of the supreme court, members of the legislature together with the secretary of the senate and the chief clerk of the house of representatives, holders of elective offices in the executive branch of state government, chief executive officers of state agencies, members of boards, commissions, or committees with authority over one or more state agencies or institutions, and employees of the state who are engaged in supervisory, policy-making, or policy-enforcing work. For the purposes of this chapter, "state officer" also includes any person exercising or undertaking to exercise the powers or functions of a state officer.

(19) "State employee" means an individual who is employed by an agency in any branch of state government. For purposes of this chapter, employees of the superior courts are not state officers or state employees.

(20) "Thing of economic value," in addition to its ordinary meaning, includes:

(a) A loan, property interest, interest in a contract or other chose in action, and employment or another arrangement involving a right to compensation;

(b) An option, irrespective of the conditions to the exercise of the option; and

(c) A promise or undertaking for the present or future delivery or procurement.

(21)(a) "Transaction involving the state" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other similar matter that the state officer, state employee, or former state officer or state employee in question believes, or has reason to believe:

(i) Is, or will be, the subject of state action; or

(ii) Is one to which the state is or will be a party; or

(iii) Is one in which the state has a direct and substantial proprietary interest.

(b) "Transaction involving the state" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by an officer or employee; or a claim, case, lawsuit, or similar matter if the officer or employee did not participate in the underlying transaction involving the state that is the basis for the claim, case, or lawsuit.

[1998 c 7 § 1; 1996 c 213 § 1; 1994 c 154 § 101.]

## **RCW 42.52.020**

### **Activities incompatible with public duties.**

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

[1996 c 213 § 2; 1994 c 154 § 102.]

## **RCW 42.52.030**

### **Financial interests in transactions.**

(1) No state officer or state employee, except as provided in subsections (2) and (3) of this section, may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract, sale, lease, purchase, or grant.

(2) No officer or employee of an institution of higher education or of the Spokane intercollegiate research and technology institute, except as provided in subsection (3) of this section, may be beneficially interested, directly or indirectly, in a contract or grant that may be made by, through, or is under the supervision of the officer or employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in the contract or grant,

unless the institution of higher education or the Spokane intercollegiate research and technology institute has in effect a written administrative process to identify and manage, reduce, or eliminate conflicting interests with respect to such transactions as adopted pursuant to the national science investigator financial disclosure (GPM 510) 1995 and the public health service regulations, 42 C.F.R. Part 50 and 45 C.F.R. Subtitle A as each of those regulations existed on June 6, 1996, and the state employee or state officer has complied with such policy.

(3) No state officer or state employee may participate in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest, except that an officer or employee of an institution of higher education or the Spokane intercollegiate research and technology institute may serve as an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel for any nonprofit institute, foundation, or fundraising entity; and may serve as a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

[1996 c 213 § 3; 1994 c 154 § 103.]

#### **RCW 42.52.040**

##### **Assisting in transactions.**

(1) Except in the course of official duties or incident to official duties, no state officer or state employee may assist another person, directly or indirectly, whether or not for compensation, in a transaction involving the state:

(a) In which the state officer or state employee has at any time participated; or

(b) If the transaction involving the state is or has been under the official responsibility of the state officer or state employee within a period of two years preceding such assistance.

(2) No state officer or state employee may share in compensation received by another for assistance that the officer or employee is prohibited from providing under subsection (1) or (3) of this section.

(3) A business entity of which a state officer or state employee is a partner, managing officer, or employee shall not assist another person in a transaction involving the state if the state officer or state employee is prohibited from doing so by subsection (1) of this section.

(4) This chapter does not prevent a state officer or state employee from assisting, in a transaction involving the state:

(a) The state officer's or state employee's parent, spouse, or child, or a child thereof for whom the officer or employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary, if the state officer or state employee did not participate in the transaction; or

(b) Another state employee involved in disciplinary or other personnel administration proceedings.

[1994 c 154 § 104.]

#### **RCW 42.52.050**

**Confidential information -- Improperly concealed records.**

(1) No state officer or state employee may accept employment or engage in any business or professional activity that the officer or employee might reasonably expect would require or induce him or her to make an unauthorized disclosure of confidential information acquired by the official or employee by reason of the official's or employee's official position.

(2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.

(3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

(4) No state officer or state employee may intentionally conceal a record if the officer or employee knew the record was required to be released under chapter 42.17 RCW, was under a personal obligation to release the record, and failed to do so. This subsection does not apply where the decision to withhold the record was made in good faith.

[1996 c 213 § 4; 1994 c 154 § 105.]

**RCW 42.52.060****Testimony of state officers and state employees.**

This chapter does not prevent a state officer or state employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt.

[1994 c 154 § 106.]

**RCW 42.52.070****Special privileges.**

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

[1994 c 154 § 107.]

**RCW 42.52.080****Employment after public service.**

(1) No former state officer or state employee may, within a period of one year from the date of termination of state employment, accept employment or receive compensation from an employer if:

(a) The officer or employee, during the two years immediately preceding termination of state employment, was engaged in the negotiation or administration on behalf of the state or agency of one or more contracts with that employer and was in a position to make discretionary decisions affecting the outcome of such negotiation or the nature of such administration;

(b) Such a contract or contracts have a total value of more than ten thousand dollars; and

(c) The duties of the employment with the employer or the activities for which the compensation would be received include fulfilling or implementing, in whole or in part, the provisions of such a contract or contracts or include the supervision or control of actions taken to fulfill or implement, in whole or in part, the provisions of such a contract or contracts. This subsection shall not be construed to prohibit a state officer or state employee from accepting employment with a state employee organization.

(2) No person who has served as a state officer or state employee may, within a period of two years following the termination of state employment, have a direct or indirect beneficial interest in a contract or grant that was expressly authorized or funded by specific legislative or executive action in which the former state officer or state employee participated.

(3) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the officer or employee knows or has reason to believe that the offer of employment or compensation was intended, in whole or in part, directly or indirectly, to influence the officer or employee or as compensation or reward for the performance or nonperformance of a duty by the officer or employee during the course of state employment.

(4) No former state officer or state employee may accept an offer of employment or receive compensation from an employer if the circumstances would lead a reasonable person to believe the offer has been made, or compensation given, for the purpose of influencing the performance or nonperformance of duties by the officer or employee during the course of state employment.

(5) No former state officer or state employee may at any time subsequent to his or her state employment assist another person, whether or not for compensation, in any transaction involving the state in which the former state officer or state employee at any time participated during state employment. This subsection shall not be construed to prohibit any employee or officer of a state employee organization from rendering assistance to state officers or state employees in the course of employee organization business.

(6) As used in this section, "employer" means a person as defined in RCW [42.52.010](#) or any other entity or business that the person owns or in which the person has a controlling interest. For purposes of subsection (1) of this section, the term "employer" does not include a successor organization to the rural development council under chapter 43.31 RCW.

[1999 c 299 § 3; 1994 c 154 § 108.]

#### **RCW 42.52.090**

##### **Limited assistance by former state officers and employees.**

This chapter shall not be construed to prevent a former state officer or state employee from rendering assistance to others if the assistance is provided without compensation in any form and is limited to one or more of the following:

(1) Providing the names, addresses, and telephone numbers of state agencies or state employees;

(2) Providing free transportation to another for the purpose of conducting business with a state agency;

(3) Assisting a natural person or nonprofit corporation in obtaining or completing application forms



or other forms required by a state agency for the conduct of a state business; or

- (4) Providing assistance to the poor and infirm.

[1994 c 154 § 109.]

#### **RCW 42.52.100**

##### **Conditions on appearance before state agencies or doing business with the state -- Hearing -- Judicial review.**

(1) The head of an agency, upon finding that any former state officer or state employee of such agency or any other person has violated any provision of this chapter or rules adopted under it, may, in addition to any other powers the head of such agency may have, bar or impose reasonable conditions upon:

- (a) The appearance before such agency of such former state officer or state employee or other person; and

- (b) The conduct of, or negotiation or competition for, business with such agency by such former state officer or state employee or other person, such period of time as may reasonably be necessary or appropriate to effectuate the purposes of this chapter.

(2) Findings of violations referred to in subsection (1)(b) of this section shall be made on record after notice and hearing, conducted in accordance with the Washington Administrative Procedure Act, chapter 34.05 RCW. Such findings and orders are subject to judicial review.

- (3) This section does not apply to the legislative or judicial branches of government.

[1994 c 154 § 110; 1969 ex.s. c 234 § 27. Formerly RCW 42.18.270.]

#### **RCW 42.52.110**

##### **Compensation for official duties or nonperformance.**

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington; or (2) in the case of officers or employees of institutions of higher education or of the Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency.

[1996 c 213 § 5; 1994 c 154 § 111.]

#### **RCW 42.52.120**

##### **Compensation for outside activities.**

(1) No state officer or state employee may receive any thing of economic value under any contract or grant outside of his or her official duties. The prohibition in this subsection does not apply where the state officer or state employee has complied with RCW [42.52.030](#)(2) or each of the following conditions are met:

(a) The contract or grant is bona fide and actually performed;

(b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision;

(c) The performance of the contract or grant is not prohibited by RCW [42.52.040](#) or by applicable laws or rules governing outside employment for the officer or employee;

(d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW [42.52.150](#)(4) from receiving a gift;

(e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity;

(f) The contract or grant would not require unauthorized disclosure of confidential information.

(2) In addition to satisfying the requirements of subsection (1) of this section, a state officer or state employee may have a beneficial interest in a grant or contract or a series of substantially identical contracts or grants with a state agency only if:

(a) The contract or grant is awarded or issued as a result of an open and competitive bidding process in which more than one bid or grant application was received; or

(b) The contract or grant is awarded or issued as a result of an open and competitive bidding or selection process in which the officer's or employee's bid or proposal was the only bid or proposal received and the officer or employee has been advised by the appropriate ethics board, before execution of the contract or grant, that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties; or

(c) The process for awarding the contract or issuing the grant is not open and competitive, but the officer or employee has been advised by the appropriate ethics board that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties.

(3) A state officer or state employee awarded a contract or issued a grant in compliance with subsection (2) of this section shall file the contract or grant with the appropriate ethics board within thirty days after the date of execution; however, if proprietary formulae, designs, drawings, or research are included in the contract or grant, the proprietary formulae, designs, drawings, or research may be deleted from the contract or grant filed with the appropriate ethics board.

(4) This section does not prevent a state officer or state employee from receiving compensation contributed from the treasury of the United States, another state, county, or municipality if the compensation is received pursuant to arrangements entered into between such state, county, municipality, or the United States and the officer's or employee's agency. This section does not prohibit a state officer or state employee from serving or performing any duties under an employment contract with a governmental entity.

(5) As used in this section, "officer" and "employee" do not include officers and employees who, in accordance with the terms of their employment or appointment, are serving without compensation from the state of Washington or are receiving from the state only reimbursement of expenses incurred or a predetermined allowance for such expenses.

[1997 c 318 § 1; 1996 c 213 § 6; 1994 c 154 § 112.]

### **RCW 42.52.130**

#### **Honoraria.**

(1) No state officer or state employee may receive honoraria unless specifically authorized by the agency where they serve as state officer or state employee.

(2) An agency may not permit honoraria under the following circumstances:

(a) The person offering the honorarium is seeking or is reasonably expected to seek contractual relations with or a grant from the employer of the state officer or state employee, and the officer or employee is in a position to participate in the terms or the award of the contract or grant;

(b) The person offering the honorarium is regulated by the employer of the state officer or state employee and the officer or employee is in a position to participate in the regulation; or

(c) The person offering the honorarium (i) is seeking or opposing or is reasonably likely to seek or oppose enactment of legislation or adoption of administrative rules or actions, or policy changes by the state officer's or state employee's agency; and (ii) the officer or employee may participate in the enactment or adoption.

[1994 c 154 § 113.]

### **RCW 42.52.140**

#### **Gifts.**

No state officer or state employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

[1994 c 154 § 114.]

### **RCW 42.52.150**

#### **Limitations on gifts.**

(1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW [42.52.010](#), whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW [42.52.010](#). The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW [42.52.140](#), and may be accepted without regard to the limit established by subsection (1) of this section:

(a) Unsolicited flowers, plants, and floral arrangements;

(b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(g) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(h) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

(a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(g) Those items excluded from the definition of gift in RCW [42.52.010](#) except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17 RCW.

[1998 c 7 § 2; 1994 c 154 § 115.]

### **RCW 42.52.160**

#### **Use of persons, money, or property for private gain.**

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties.

(3) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties.

[1996 c 213 § 7; 1994 c 154 § 116; 1987 c 426 § 3. Formerly RCW 42.18.217.]

### **RCW 42.52.170**

#### **Giving, paying, loaning, etc., any thing of economic value to state employee.**

No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to any other person any thing of economic value believing or having reason to believe that there exist circumstances making the receipt thereof a violation of RCW [42.52.040](#), [42.52.110](#), [42.52.120](#), [42.52.140](#), or [42.52.150](#).

[1994 c 154 § 117; 1987 c 426 § 5; 1969 ex.s. c 234 § 23. Formerly RCW 42.18.230.]

### **RCW 42.52.180**

#### **Use of public resources for political campaigns.**

(1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency

during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c) Activities that are part of the normal and regular conduct of the office or agency; and

(d) De minimis use of public facilities by statewide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of RCW 42.17.130.

[1995 c 397 § 30; 1994 c 154 § 118.]

## NOTES:

**Effective date -- Captions -- Severability -- 1995 c 397:** See RCW 42.17.960 through 42.17.962.

## RCW 42.52.185

### Restrictions on mailings by legislators.

(1) During the twelve-month period beginning on December 1st of the year before a general election for a state legislator's election to office and continuing through November 30th immediately after the general election, the legislator may not mail, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as follows:

(a) The legislator may mail two mailings of newsletters to constituents. All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address. One such mailing may be mailed no later than thirty days after the start of a regular legislative session, except that a legislator appointed during a regular legislative session to fill a vacant seat may have up to thirty days from the date of appointment to send out the first mailing. The other mailing may be mailed no later than sixty days after the end of a regular legislative session.

(b) The legislator may mail an individual letter to (i) an individual constituent who has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; (ii) an

individual constituent who holds a governmental office with jurisdiction over the subject matter of the letter; or (iii) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person, including, but not limited to: (A) An international or national award such as the Nobel prize or the Pulitzer prize; (B) a state award such as Washington scholar; (C) an Eagle Scout award; and (D) a Medal of Honor.

(2) For purposes of subsection (1) of this section, "legislator" means a legislator who is a "candidate," as defined by RCW 42.17.020, for any public office.

(3) A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW [42.52.180](#).

(4) The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings. Those costs include, but are not limited to, production costs, printing costs, and postage costs. The limits imposed under this subsection apply only to the total expenditures on mailings per member and not to any categorical cost within the total.

(5) For purposes of this section, persons residing outside the legislative district represented by the legislator are not considered to be constituents, but students, military personnel, or others temporarily employed outside of the district who normally reside in the district are considered to be constituents.

[1997 c 320 § 1; 1995 c 397 § 5; 1993 c 2 § 25 (Initiative Measure No. 134, approved November 3, 1992). Formerly RCW 42.17.132.]

## **RCW 42.52.190**

### **Investments.**

(1) Except for permissible investments as defined in this section, no state officer or state employee of any agency responsible for the investment of funds, who acts in a decision-making, advisory, or policy-influencing capacity with respect to investments, may have a direct or indirect interest in any property, security, equity, or debt instrument of a person, without prior written approval of the agency.

(2) Agencies responsible for the investment of funds shall adopt policies governing approval of investments and establishing criteria to be considered in the approval process. Criteria shall include the relationship between the proposed investment and investments held or under consideration by the state, the size and timing of the proposed investment, access by the state officer or state employee to nonpublic information relative to the proposed investment, and the availability of the investment in the public market. Agencies responsible for the investment of funds also shall adopt policies consistent with this chapter governing use by their officers and employees of financial information acquired by virtue of their state positions. A violation of such policies adopted to implement this subsection shall constitute a violation of this chapter.

(3) As used in this section, "permissible investments" means any mutual fund, deposit account, certificate of deposit, or money market fund maintained with a bank, broker, or other financial institution, a security publicly traded in an organized market if the interest in the security at acquisition is ten thousand dollars or less, or an interest in real estate, except if the real estate interest is in or with a party in whom the agency holds an investment.

[1994 c 154 § 119.]

**RCW 42.52.200****Agency rules.**

(1) Each agency may adopt rules consistent with law, for use within the agency to protect against violations of this chapter.

(2) Each agency proposing to adopt rules under this section shall forward the rules to the appropriate ethics board before they may take effect. The board may submit comments to the agency regarding the proposed rules.

[1994 c 154 § 120.]

**RCW 42.52.310****Legislative ethics board.**

(1) The legislative ethics board is created, composed of nine members, selected as follows:

(a) Two senators, one from each of the two largest caucuses, appointed by the president of the senate;

(b) Two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(c) Five citizen members:

(i) One citizen member chosen by the governor from a list of three individuals submitted by each of the four legislative caucuses; and

(ii) One citizen member selected by three of the four other citizen members of the legislative ethics board.

(2) Except for initial members and members completing partial terms, nonlegislative members shall serve a single five-year term.

(3) No more than three of the public members may be identified with the same political party.

(4) Terms of initial nonlegislative board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a three-year term; one member shall be appointed to a four-year term; and one member shall be appointed for a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Legislative members shall serve two-year terms, from January 31st of an odd-numbered year until January 31st of the next odd-numbered year.

(7) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(8) The citizen members shall annually select a chair from among themselves.

[1994 c 154 § 201.]



**RCW 42.52.320****Authority of legislative ethics board.**

(1) The legislative ethics board shall enforce this chapter and rules adopted under it with respect to members and employees of the legislature.

(2) The legislative ethics board shall:

(a) Develop educational materials and training with regard to legislative ethics for legislators and legislative employees;

(b) Issue advisory opinions;

(c) Adopt rules or policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW [42.52.180](#) and where otherwise authorized under chapter 154, Laws of 1994;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend suspension or removal to the appropriate legislative entity, or recommend prosecution to the appropriate authority; and

(g) Establish criteria regarding the levels of civil penalties appropriate for different types of violations of this chapter and rules adopted under it.

(3) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(4) Subject to RCW [42.52.540](#), the board has jurisdiction over any alleged violation that occurred before January 1, 1995, and that was within the jurisdiction of any of the boards established under \*chapter 44.60 RCW. The board's jurisdiction with respect to any such alleged violation shall be based on the statutes and rules in effect at [the] time of the violation.

[1994 c 154 § 202.]

**NOTES:**

**\*Reviser's note:** Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

**RCW 42.52.330****Interpretation.**

By constitutional design, the legislature consists of citizen-legislators who bring to bear on the legislative process their individual experience and expertise. The provisions of this chapter shall be interpreted in light of this constitutional principle.

[1994 c 154 § 203.]

**RCW 42.52.340****Transfer of jurisdiction.**

On January 1, 1995, any complaints or other matters under investigation or consideration by the boards of legislative ethics in the house of representatives and the senate operating pursuant to \*chapter 44.60 RCW shall be transferred to the legislative ethics board created by RCW [42.52.310](#). All files, including but not limited to minutes of meetings, investigative files, records of proceedings, exhibits, and expense records, shall be transferred to the legislative ethics board created in RCW [42.52.310](#) pursuant to their direction and the legislative ethics board created in RCW [42.52.310](#) shall assume full jurisdiction over all pending complaints, investigations, and proceedings.

[1994 c 154 § 204.]

**NOTES:**

**\*Reviser's note:** Chapter 44.60 RCW was repealed by 1994 c 154 § 304, effective January 1, 1995.

**RCW 42.52.350****Executive ethics board.**

(1) The executive ethics board is created, composed of five members, appointed by the governor as follows:

- (a) One member shall be a classified service employee as defined in chapter 41.06 RCW;
- (b) One member shall be a state officer or state employee in an exempt position;
- (c) One member shall be a citizen selected from a list of three names submitted by the attorney general;
- (d) One member shall be a citizen selected from a list of three names submitted by the state auditor; and

- (e) One member shall be a citizen selected at large by the governor.

(2) Except for initial members and members completing partial terms, members shall serve a single five-year term.

- (3) No more than three members may be identified with the same political party.

(4) Terms of initial board members shall be staggered as follows: One member shall be appointed to a one-year term; one member shall be appointed to a two-year term; one member shall be appointed to a

three-year term; one member shall be appointed to a four-year term; and one member shall be appointed to a five-year term.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Each member shall serve for the term of his or her appointment and until his or her successor is appointed.

(7) The members shall annually select a chair from among themselves.

(8) Staff shall be provided by the office of the attorney general.

[1994 c 154 § 205.]

### **RCW 42.52.360**

#### **Authority of executive ethics board.**

(1) The executive ethics board shall enforce this chapter and rules adopted under it with respect to statewide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

(2) The executive ethics board shall:

(a) Develop educational materials and training;

(b) Adopt rules and policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW [42.52.180](#) and where otherwise authorized under chapter 154, Laws of 1994;

(c) Issue advisory opinions;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend to the appropriate authorities suspension, removal from position, prosecution, or other appropriate remedy; and

(g) Establish criteria regarding the levels of civil penalties appropriate for violations of this chapter and rules adopted under it.

(3) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(4) The executive ethics board may review and approve agency policies as provided for in this chapter.

(5) This section does not apply to state officers and state employees of the judicial branch.

[1994 c 154 § 206.]

### **RCW 42.52.370**

#### **Authority of commission on judicial conduct.**

The commission on judicial conduct shall enforce this chapter and rules adopted under it with respect to state officers and employees of the judicial branch and may do so according to procedures prescribed in Article IV, section 31 of the state Constitution. In addition to the sanctions authorized in Article IV, section 31 of the state Constitution, the commission may impose sanctions authorized by this chapter.

[1994 c 154 § 207.]

### **RCW 42.52.380**

#### **Political activities of board members.**

(1) No member of the executive ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter 42.17 RCW other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any state candidate or state ballot measure; or (d) lobby or control, direct, or assist a lobbyist except that such member may appear before any committee of the legislature on matters pertaining to this chapter.

(2) No citizen member of the legislative ethics board may (a) hold or campaign for partisan elective office other than the position of precinct committeeperson, or any full-time nonpartisan office; (b) be an officer of any political party or political committee as defined in chapter 42.17 RCW, other than the position of precinct committeeperson; (c) permit his or her name to be used, or make contributions, in support of or in opposition to any legislative candidate, any legislative caucus campaign committee that supports or opposes legislative candidates, or any political action committee that supports or opposes legislative candidates; or (d) engage in lobbying in the legislative branch under circumstances not exempt, under RCW 42.17.160, from lobbyist registration and reporting.

(3) No citizen member of the legislative ethics board may hold or campaign for a seat in the state house of representatives or the state senate within two years of serving on the board if the citizen member opposes an incumbent who has been the respondent in a complaint before the board.

[1997 c 11 § 1; 1994 c 154 § 208.]

### **RCW 42.52.390**

#### **Hearing and subpoena authority.**

Except as otherwise provided by law, the ethics boards may hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under

investigation or in question before the ethics board. The ethics board may make rules as to the issuance of subpoenas by individual members, as to service of complaints, decisions, orders, recommendations, and other process or papers of the ethics board.

[1994 c 154 § 209.]

#### **RCW 42.52.400**

##### **Enforcement of subpoena authority.**

In case of refusal to obey a subpoena issued to a person, the superior court of a county within the jurisdiction of which the investigation, proceeding, or hearing under this chapter is carried on or within the jurisdiction of which the person refusing to obey is found or resides or transacts business, upon application by the appropriate ethics board shall have jurisdiction to issue to the person an order requiring the person to appear before the ethics board or its member to produce evidence if so ordered, or to give testimony touching the matter under investigation or in question. Failure to obey such order of the court may be punished by the court as contempt.

[1994 c 154 § 210.]

#### **RCW 42.52.410**

##### **Filing complaint.**

(1) A person may, personally or by his or her attorney, make, sign, and file with the appropriate ethics board a complaint on a form provided by the appropriate ethics board. The complaint shall state the name of the person alleged to have violated this chapter or rules adopted under it and the particulars thereof, and contain such other information as may be required by the appropriate ethics board.

(2) If it has reason to believe that any person has been engaged or is engaging in a violation of this chapter or rules adopted under it, an ethics board may issue a complaint.

[1994 c 154 § 211.]

#### **RCW 42.52.420**

##### **Investigation.**

(1) After the filing of any complaint, except as provided in RCW [42.52.450](#), the staff of the appropriate ethics board shall investigate the complaint. The investigation shall be limited to the allegations contained in the complaint.

(2) The results of the investigation shall be reduced to writing and the staff shall either make a determination that the complaint should be dismissed pursuant to RCW [42.52.425](#), or recommend to the board that there is or that there is not reasonable cause to believe that a violation of this chapter or rules adopted under it has been or is being committed.

(3) The board's determination on reasonable cause shall be provided to the complainant and to the person named in such complaint.

[2000 c 211 § 1; 1994 c 154 § 212.]

#### **RCW 42.52.425**

**Dismissal of complaint.**

(1) Based on the investigation conducted under RCW [42.52.420](#), and subject to rules issued by each board, the staff of the appropriate ethics board may issue an order of dismissal based on any of the following findings:

(a) Any violation that may have occurred is not within the jurisdiction of the board;

(b) The complaint is obviously unfounded or frivolous; or

(c) Any violation that may have occurred does not constitute a material violation because it was inadvertent and minor, or has been cured, and, after consideration of all of the circumstances, further proceedings would not serve the purposes of this chapter.

(2) Written notice of the determination under subsection (1) of this section shall be provided to the complainant, respondent, and the board. The written notice to the complainant shall include a statement of the complainant's right to appeal to the board under subsection (3) of this section.

(3) In the event that a complaint is dismissed under this section, the complainant may request that the board review the action. Following review, the board shall:

(a) Affirm the staff dismissal;

(b) Direct the staff to conduct further investigation; or

(c) Issue a determination that there is reasonable cause to believe that a violation has been or is being committed.

(4) The board's decision under subsection (3) of this section shall be reduced to writing and provided to the complainant and the respondent.

[2000 c 211 § 2.]

**RCW 42.52.430****Public hearing -- Findings.**

(1) If the ethics board determines there is reasonable cause under RCW [42.52.420](#) that a violation of this chapter or rules adopted under it occurred, a public hearing on the merits of the complaint shall be held.

(2) The ethics board shall designate the location of the hearing. The case in support of the complaint shall be presented at the hearing by staff of the ethics board.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine witnesses.

(4) Testimony taken at the hearing shall be under oath and recorded.

(5) If, based upon a preponderance of the evidence, the ethics board finds that the respondent has violated this chapter or rules adopted under it, the board shall file an order stating findings of fact and enforcement action as authorized under this chapter.

(6) If, upon all the evidence, the ethics board finds that the respondent has not engaged in an alleged violation of this chapter or rules adopted under it, the ethics board shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(7) If the board makes a determination that there is not reasonable cause to believe that a violation has been or is being committed or has made a finding under subsection (6) of this section, the attorney general shall represent the officer or employee in any action subsequently commenced based on the alleged facts in the complaint.

[1994 c 154 § 213.]

#### **RCW 42.52.440**

##### **Review of order.**

Except as otherwise provided by law, reconsideration or judicial review of an ethics board's order that a violation of this chapter or rules adopted under it has occurred shall be governed by the provisions of chapter 34.05 RCW applicable to review of adjudicative proceedings.

[1994 c 154 § 214.]

#### **RCW 42.52.450**

##### **Complaint against legislator or statewide elected official.**

(1) If a complaint alleges a violation of RCW [42.52.180](#) by a legislator or statewide elected official other than the attorney general, the attorney general shall conduct the investigation under RCW [42.52.420](#) and recommend action to the appropriate ethics board.

(2) If a complaint alleges a violation of RCW [42.52.180](#) by the attorney general, the state auditor shall conduct the investigation under RCW [42.52.420](#) and recommend action to the appropriate ethics board.

[1994 c 154 § 215.]

#### **RCW 42.52.460**

##### **Citizen actions.**

Any person who has notified the appropriate ethics board and the attorney general in writing that there is reason to believe that RCW [42.52.180](#) is being or has been violated may, in the name of the state, bring a citizen action for any of the actions authorized under this chapter. A citizen action may be brought only if the appropriate ethics board or the attorney general have failed to commence an action under this chapter within forty-five days after notice from the person, the person has thereafter notified the appropriate ethics board and the attorney general that the person will commence a citizen's action within ten days upon their failure to commence an action, and the appropriate ethics board and the attorney general have in fact failed to bring an action within ten days of receipt of the second notice.

If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but the person shall be entitled to be reimbursed by the state of Washington for costs and attorneys' fees incurred. If a citizen's action that the court finds was brought without reasonable cause is dismissed, the court may order the person commencing the action to pay all costs of trial and reasonable attorneys' fees incurred by the defendant.

Upon commencement of a citizen action under this section, at the request of a state officer or state employee who is a defendant, the office of the attorney general shall represent the defendant if the attorney general finds that the defendant's conduct complied with this chapter and was within the scope of employment.

[1994 c 154 § 216.]

#### **RCW 42.52.470**

##### **Referral for enforcement.**

As appropriate, an ethics board may refer a complaint:

(1) To an agency for initial investigation and proposed resolution which shall be referred back to the appropriate ethics board for action; or

(2) To the attorney general's office or prosecutor for appropriate action.

[1994 c 154 § 217.]

#### **RCW 42.52.480**

##### **Action by boards.**

(1) Except as otherwise provided by law, an ethics board may order payment of the following amounts if it finds a violation of this chapter or rules adopted under it after a hearing under RCW [42.52.370](#) or other applicable law:

(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) Damages under this section may be enforced in the same manner as a judgment in a civil case.

[1994 c 154 § 218.]

#### **RCW 42.52.490**

##### **Action by attorney general.**

(1) Upon a written determination by the attorney general that the action of an ethics board was clearly erroneous or if requested by an ethics board, the attorney general may bring a civil action in the superior court of the county in which the violation is alleged to have occurred against a state officer, state employee, former state officer, former state employee, or other person who has violated or knowingly assisted another person in violating any of the provisions of this chapter or the rules adopted under it. In such action the attorney general may recover the following amounts on behalf of the state of Washington:



(a) Any damages sustained by the state that are caused by the conduct constituting the violation;

(b) From each such person, a civil penalty of up to five thousand dollars per violation or three times the economic value of any thing received or sought in violation of this chapter or the rules adopted under it, whichever is greater; and

(c) Costs, including reasonable investigative costs, which shall be included as part of the limit under (b) of this subsection. The costs may not exceed the penalty imposed. The payment owed on the penalty shall be reduced by the amount of the costs paid.

(2) In any civil action brought by the attorney general upon the basis that the attorney general has determined that the board's action was clearly erroneous, the court shall not proceed with the action unless the attorney general has first shown, and the court has found, that the action of the board was clearly erroneous.

[1994 c 154 § 219.]

### **RCW 42.52.500**

#### **Optional hearings by administrative law judge.**

If an ethics board finds that there is reasonable cause to believe that a violation has occurred, the board shall consider the possibility of the alleged violator having to pay a total amount of penalty and costs of more than five hundred dollars. Based on such consideration, the board may give the person who is the subject of the complaint the option to have an administrative law judge conduct the hearing and rule on procedural and evidentiary matters. The board may also, on its own initiative, provide for retaining an administrative law judge. An ethics board may not require total payment of more than five hundred dollars in penalty and costs in any case where an administrative law judge is not used and the board did not give such option to the person who is the subject of the complaint.

[1994 c 154 § 220.]

### **RCW 42.52.510**

#### **Rescission of state action.**

(1) The attorney general may, on request of the governor or the appropriate agency, and in addition to other available rights of rescission, bring an action in the superior court of Thurston county to cancel or rescind state action taken by a state officer or state employee, without liability to the state of Washington, contractual or otherwise, if the governor or ethics board has reason to believe that: (a) A violation of this chapter or rules adopted under it has substantially influenced the state action, and (b) the interest of the state requires the cancellation or rescission. The governor may suspend state action pending the determination of the merits of the controversy under this section. The court may permit persons affected by the governor's actions to post an adequate bond pending such resolution to ensure compliance by the defendant with the final judgment, decree, or other order of the court.

(2) This section does not limit other available remedies.

[1994 c 154 § 221.]

### **RCW 42.52.520**

#### **Disciplinary action.**

(1) A violation of this chapter or rules adopted under it is grounds for disciplinary action.

(2) The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally; for those state officers and state employees not specifically exempted in chapter 41.06 RCW, the rules set forth in chapter 41.06 RCW shall apply. Any action against the state officer or state employee shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of state officers and state employees of the same category and grade.

[1994 c 154 § 222; 1969 ex.s. c 234 § 26. Formerly RCW 42.18.260.]

### **RCW 42.52.530**

#### **Additional investigative authority.**

In addition to other authority under this chapter, the attorney general may investigate persons not under the jurisdiction of an ethics board whom the attorney general has reason to believe were involved in transactions in violation of this chapter or rules adopted under it.

[1994 c 154 § 223.]

### **RCW 42.52.540**

#### **Limitations period.**

Any action taken under this chapter must be commenced within five years from the date of the violation. However, if it is shown that the violation was not discovered because of concealment by the person charged, then the action must be commenced within two years from the date the violation was discovered or reasonably should have been discovered: (1) By any person with direct or indirect supervisory responsibilities over the person who allegedly committed the violation; or (2) if no person has direct or indirect supervisory authority over the person who committed the violation, by the appropriate ethics board.

[1994 c 154 § 224.]

### **RCW 42.52.550**

#### **Compensation of ethics boards.**

The citizen members of the legislative ethics board and the members of the executive ethics board shall be compensated as provided in RCW 43.03.250 and reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislator members of the legislative ethics board shall be reimbursed as provided in RCW 44.04.120.

[1994 c 154 § 227.]

### **RCW 42.52.800**

#### **Exemptions -- Solicitation for state capitol historic furnishings and preservation and restoration of state legislative building.**

(1) When soliciting charitable gifts, grants, or donations solely for the limited purposes of RCW 27.48.040, members of the capitol furnishings preservation committee are exempt from the laws of this chapter.

(2) When soliciting charitable gifts, grants, or donations solely for the limited purposes of RCW

27.48.050 or when assisting a nonprofit foundation established for the purposes of RCW 27.48.050, state officers and state employees are exempt from the laws of this chapter.

[2002 c 167 § 3; 1999 c 343 § 4.]

## NOTES:

**Findings -- Effective date -- 2002 c 167:** See notes following RCW 27.48.050.

**Findings -- Purpose -- 1999 c 343:** See note following RCW 27.48.040.

## RCW 42.52.900

### **Legislative declaration.**

Government derives its powers from the people. Ethics in government are the foundation on which the structure of government rests. State officials and employees of government hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling the responsibilities to which they are elected and appointed. Paramount in that trust is the principle that public office, whether elected or appointed, may not be used for personal gain or private advantage.

The citizens of the state expect all state officials and employees to perform their public responsibilities in accordance with the highest ethical and moral standards and to conduct the business of the state only in a manner that advances the public's interest. State officials and employees are subject to the sanctions of law and scrutiny of the media; ultimately, however, they are accountable to the people and must consider this public accountability as a particular obligation of the public service. Only when affairs of government are conducted, at all levels, with openness as provided by law and an unswerving commitment to the public good does government work as it should.

The obligations of government rest equally on the state's citizenry. The effectiveness of government depends, fundamentally, on the confidence citizens can have in the judgments and decisions of their elected representatives. Citizens, therefore, should honor and respect the principles and the spirit of representative democracy, recognizing that both elected and appointed officials, together with state employees, seek to carry out their public duties with professional skill and dedication to the public interest. Such service merits public recognition and support.

All who have the privilege of working for the people of Washington state can have but one aim: To give the highest public service to its citizens.

[1994 c 154 § 1.]

## RCW 42.52.901

### **Liberal construction.**

This chapter shall be construed liberally to effectuate its purposes and policy and to supplement existing laws as may relate to the same subject.

[1994 c 154 § 301.]

## RCW 42.52.902

### **Parts and captions not law -- 1994 c 154.**

Parts and captions used in this act do not constitute any part of the law.

[1994 c 154 § 302.]

### **RCW 42.52.903**

#### **Serving on board, committee, or commission not prevented.**

Nothing in this chapter shall be interpreted to prevent a member of a board, committee, advisory commission, or other body required or permitted by statute to be appointed from any identifiable group or interest, from serving on such body in accordance with the intent of the legislature in establishing such body.

[1969 ex.s. c 234 § 33. Formerly RCW 42.18.330.]

### **RCW 42.52.904**

#### **Effective date -- 1994 c 154.**

Sections 101 through 121, 203, 204, 207 through 224, and 301 through 317 of this act shall take effect January 1, 1995.

[1994 c 154 § 319.]

### **RCW 42.52.905**

#### **Severability -- 1994 c 154.**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1994 c 154 § 320.]

## **Chapter 43.33A RCW STATE INVESTMENT BOARD**

### **SECTIONS**

- [43.33A.010](#) General powers and duties.
- [43.33A.020](#) Board created -- Membership -- Terms -- Vacancies -- Removal.
- [43.33A.025](#) Criminal history record checks for board staff finalist candidates.
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- [43.33A.110](#) Rules and regulations -- Investment policies and procedures.
- [43.33A.120](#) Examination of accounts, files, and other records.
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- [43.33A.220](#) Emergency reserve fund -- Board's duties.
- [43.33A.230](#) Basic health plan self-insurance reserve account -- Board duties and powers.

### **RCW 43.33A.010**

#### **General powers and duties.**

The state investment board shall exercise all the powers and perform all duties prescribed by law with respect to the investment of public trust and retirement funds.

[1981 c 3 § 1.]

**NOTES:**

**Effective dates -- 1981 c 3:** "Sections 2, 4, 5, 6, 7, 10, 11, 16, and 47 of this 1980 act shall take effect on July 1, 1980. The remaining sections of this 1980 act shall take effect on July 1, 1981." [1981 c 3 § 46.]

**Reviser's note:** Substitute House Bill No. 1610 was enacted during the 1980 legislative session, but was vetoed. The veto was overridden by the legislature as follows: Passed the House of Representatives on January 30, 1981; passed the Senate on February 6, 1981. The bill became chapter 3, Laws of 1981.

**Severability -- 1981 c 3:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 3 § 49.]

**RCW 43.33A.020****Board created -- Membership -- Terms -- Vacancies -- Removal.**

There is hereby created the state investment board to consist of fifteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and fire fighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer or the assistant state treasurer if designated by the state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) One member who is an active member of the school employees' retirement system and has at

least five years of service credit. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(11) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority.

[2002 c 303 § 1; 1985 c 195 § 1; 1981 c 219 § 1; 1981 c 3 § 2.]

#### NOTES:

**Effective date -- 2002 c 303:** "This act takes effect September 1, 2002." [2002 c 303 § 3.]

**Effective dates -- 1981 c 219:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [May 14, 1981], except sections 1 and 2 of this act shall take effect July 1, 1981." [1981 c 219 § 6.]

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

#### RCW 43.33A.025

##### **Criminal history record checks for board staff finalist candidates.**

(1) Notwithstanding any provision of RCW 43.43.700 through 43.43.815, the state investment board shall require a criminal history record check for conviction records through the Washington state patrol criminal identification system, and through the federal bureau of investigation, for the purpose of conducting preemployment evaluations of each finalist candidate for a board staff position exempt from the provisions of chapter 41.06 RCW, or for any other position in which the employee will have authority for or access to: (a) Funds under the jurisdiction or responsibility of the investment board; or (b) data or security systems of the investment board or designs for such systems. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card, which shall be forwarded by the state patrol to the federal bureau of investigation.

(2) Information received by the investment board pursuant to this section shall be made available by the investment board only to board employees involved in the selection, hiring, background investigation, or job assignment of the person who is the subject of the record check, or to that subject person, and it shall be used only for the purposes of making, supporting, or defending decisions

regarding the appointment or hiring of persons for these positions, or securing any necessary bonds or other requirements for such employment. Otherwise, the reports, and information contained therein, shall remain confidential and shall not be subject to the disclosure requirements of chapter 42.17 RCW.

(3) Fees charged by the Washington state patrol, or the federal bureau of investigation, for conducting these investigations and providing these reports shall be paid by the investment board.

[2000 c 188 § 1; 1999 c 226 § 1.]

### **RCW 43.33A.030**

#### **Trusteeship of funds -- Contracts -- Delegation of powers and duties.**

Trusteeship of those funds under the authority of the board is vested in the voting members of the board. The nonvoting members of the board shall advise the voting members on matters of investment policy and practices.

The board may enter into contracts necessary to carry out its powers and duties. The board may delegate any of its powers and duties to its executive director as deemed necessary for efficient administration and when consistent with the purposes of chapter 3, Laws of 1981.

Subject to guidelines established by the board, the board's executive director may delegate to board staff any of the executive director's powers and duties including, but not limited to, the power to make investment decisions and to execute investment and other contracts on behalf of the board.

[1997 c 161 § 1; 1981 c 3 § 3.]

#### **NOTES:**

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

### **RCW 43.33A.035**

#### **Delegation of authority--Investments or investment properties.**

The board or its executive director may delegate by contract to private sector or other external advisors or managers the discretionary authority, as fiduciaries, to purchase or otherwise acquire, sell, or otherwise dispose of or manage investments or investment properties on behalf of the board, subject to investment or management criteria established by the board or its executive director. Such criteria relevant to particular investments or class of investment applicable under the board's contract with an advisor or manager must be incorporated by reference into the contract.

[1997 c 161 § 2.]

### **RCW 43.33A.040**

#### **Quorum -- Meetings -- Chairperson -- Vice chairperson.**

(1) A quorum to conduct the business of the state investment board consists of at least six voting members. No action may be taken by the board without the affirmative vote of six members.

(2) The state investment board shall meet at least quarterly at such times as it may fix. The board shall elect a chairperson and vice chairperson annually: PROVIDED, That the legislative members are not eligible to serve as chairperson.



[2002 c 303 § 2; 1981 c 219 § 2; 1981 c 3 § 4.]

#### NOTES:

**Effective date -- 2002 c 303:** See note following RCW [43.33A.020](#).

**Effective dates -- 1981 c 219:** See note following RCW [43.33A.020](#).

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

#### RCW 43.33A.050

##### **Compensation of members -- Travel expenses.**

Members of the state investment board who are public employees shall serve without compensation but shall suffer no loss because of absence from their regular employment. Members of the board who are not public employees shall be compensated in accordance with RCW 43.03.240. Members of the board who are not legislators shall be reimbursed for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060. Legislative members shall receive allowances provided for in RCW 44.04.120.

[1984 c 287 § 80; 1981 c 3 § 5.]

#### NOTES:

**Legislative findings -- Severability -- Effective date -- 1984 c 287:** See notes following RCW 43.03.220.

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

#### RCW 43.33A.060

##### **Employment restrictions.**

No member during the term of appointment may be employed by any investment brokerage or mortgage servicing firm doing business with the state investment board. A trust department of a commercial bank or trust company organized under federal or state law is not considered a mortgage servicing firm for purposes of this section.

[1981 c 3 § 6.]

#### NOTES:

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

#### RCW 43.33A.070

##### **Liability of members.**

No member of the state investment board is liable for the negligence, default, or failure of any other person or other member of the board to perform the duties of the member's office and no member of the board shall be considered or held to be an insurer of the funds or assets of any of the trust and retirement funds nor is any nonvoting member liable for actions performed with the exercise of reasonable

diligence within the scope of the member's authorized activities as a member of the board.

[1981 c 3 § 7.]

**NOTES:**

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

**RCW 43.33A.080**

**Investment of funds in farm, soil, water conservation loans and in Washington land bank.**

The state investment board may invest those funds which are not under constitutional prohibition in: (1) Farm ownership and soil and water conservation loans fully guaranteed as to principal and interest under the Bankhead-Jones farm tenant act administered by the United States department of agriculture; and (2) the Washington land bank established by \*chapter 31.30 RCW.

[1987 c 29 § 2; 1981 c 3 § 8.]

**NOTES:**

**\*Reviser's note:** Chapter 31.30 RCW was repealed by 1998 c 12 § 1.

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

**RCW 43.33A.090**

**Records.**

The state investment board shall keep a full and complete public record of its proceedings in appropriate books of record. Within sixty days of July 1, 1981, the state investment board shall assume physical custody of all investment accounts, files, and other records of each fund placed under the investment authority of the board.

[1981 c 3 § 9.]

**NOTES:**

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

**RCW 43.33A.100**

**Offices -- Personnel -- Officers -- Compensation -- Transfer of employees -- Existing contracts and obligations.**

The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the executive director, a confidential secretary, and all investment officers, including the

deputy director for investment management, employed by the investment board shall be established by the state investment board. The investment board is authorized to maintain a retention pool, from the earnings of the funds managed by the board, in order to address recruitment and retention problems. The compensation levels for investment officers shall be limited to the average of state funds of similar size, based upon a biennial survey conducted by the investment board, with review and comment by the joint legislative audit and review committee. However, in any fiscal year the salary increases granted by the investment board from the retention pool to investment officers pursuant to this section may not exceed an average of five percent.

The investment board shall provide notice to the director of the department of personnel, the director of financial management, and the chairs of the house of representatives and senate fiscal committees of proposed changes to the compensation levels for the positions. The notice shall be provided not less than sixty days prior to the effective date of the proposed changes.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in \*this 1980 act shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by \*this 1980 act shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981.

[2001 c 302 § 1; 1993 c 281 § 50; 1981 c 219 § 3; 1981 c 3 § 10.]

## NOTES:

**\*Reviser's note:** For "this 1980 act," see note following RCW [43.33A.030](#).

**Effective date -- 1993 c 281:** See note following RCW 41.06.022.

**Effective dates -- 1981 c 219:** See note following RCW [43.33A.020](#).

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

## RCW 43.33A.110

### Rules and regulations -- Investment policies and procedures.

The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall establish investment policies and procedures designed exclusively to maximize return at a prudent level of risk. However, in the case of the department of labor and industries' accident, medical aid, and reserve funds, the board shall establish investment policies and procedures designed to attempt to limit fluctuations in industrial insurance premiums and, subject to this purpose, to maximize return at a prudent level of risk. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.52 RCW. Rules adopted by the board shall be adopted pursuant to chapter 34.05 RCW.

[1994 c 154 § 310; 1989 c 179 § 1; 1988 c 130 § 1; 1981 c 219 § 4; 1981 c 3 § 11.]

**NOTES:**

**Parts and captions not law -- Effective date -- Severability -- 1994 c 154:** See RCW 42.52.902, 42.52.904, and 42.52.905.

**Effective dates -- 1981 c 219:** See note following RCW [43.33A.020](#).

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

**RCW 43.33A.120****Examination of accounts, files, and other records.**

All accounts, files, and other records of the state investment board which pertain to each retirement system are subject at any time or from time to time to such reasonable periodic, special, or other examinations by the department of retirement systems as the director of the department of retirement systems deems necessary or appropriate.

[1981 c 3 § 12.]

**NOTES:**

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

**RCW 43.33A.130****Securities -- State treasurer may cause same to be registered in the name of the nominee.**

The state treasurer may cause any securities in which the state investment board deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the state treasurer, the federal reserve system, the designee of the state treasurer, or, at the election of the designee and upon approval of the state treasurer, the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only upon the order of the state investment board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities are vested in the actual owners of the securities, and not in the nominee.

[1999 c 228 § 1; 1981 c 3 § 13.]

**NOTES:**

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

**RCW 43.33A.135****Investment policy -- Investment options.**

The state investment board has the full power to establish investment policy, develop participant investment options, and manage investment funds for the state deferred compensation plan, consistent with the provisions of RCW 41.50.770 and 41.50.780. The board may continue to offer the investment options provided as of June 11, 1998, until the board establishes a deferred compensation plan

investment policy and adopts new investment options after considering the recommendations of the employee retirement benefits board.

[1998 c 116 § 13.]

#### **RCW 43.33A.140**

##### **Investments -- Standard of investment and management.**

The state investment board shall invest and manage the assets entrusted to it with reasonable care, skill, prudence, and diligence under circumstances then prevailing which a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an activity of like character and purpose.

The board shall:

(1) Consider investments not in isolation, but in the context of the investment of the particular fund as a whole and as part of an overall investment strategy, which should incorporate risk and return objectives reasonably suited for that fund; and

(2) Diversify the investments of the particular fund unless, because of special circumstances, the board reasonably determines that the purposes of that fund are better served without diversifying. However, no corporate fixed-income issue or common stock holding may exceed three percent of the cost or six percent of the market value of the assets of that fund.

[1998 c 14 § 1; 1981 c 3 § 14.]

#### **NOTES:**

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

#### **RCW 43.33A.150**

##### **Reports of investment activities.**

(1) The state investment board shall prepare written reports at least quarterly summarizing the investment activities of the state investment board, which reports shall be sent to the governor, the senate ways and means committee, the house appropriations committee, the department of retirement systems, and other agencies having a direct financial interest in the investment of funds by the board, and to other persons on written request. The state investment board shall provide information to the department of retirement systems necessary for the preparation of monthly reports.

(2) At least annually, the board shall report on the board's investment activities for the department of labor and industries' accident, medical aid, and reserve funds to the senate financial institutions and insurance committee, the senate economic development and labor committee, and the house commerce and labor committee, or appropriate successor committees.

[1989 c 179 § 2; 1981 c 3 § 15.]

#### **NOTES:**

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

**RCW 43.33A.160****Funding of board -- State investment board expense account.**

(1) The state investment board shall be funded from the earnings of the funds managed by the state investment board, proportional to the value of the assets of each fund, subject to legislative appropriation.

(2) There is established in the state treasury a state investment board expense account from which shall be paid the operating expenses of the state investment board. Prior to November 1 of each even-numbered year, the state investment board shall determine and certify to the state treasurer and the office of financial management the value of the various funds managed by the investment board in order to determine the proportional liability of the funds for the operating expenses of the state investment board. Pursuant to appropriation, the state treasurer is authorized to transfer such moneys from the various funds managed by the investment board to the state investment board expense account as are necessary to pay the operating expenses of the investment board.

[1991 sp.s. c 13 § 32; 1985 c 57 § 32; 1982 c 10 § 10. Prior: 1981 c 242 § 1; 1981 c 219 § 5; 1981 c 3 § 16.]

**NOTES:**

**Effective dates -- Severability -- 1991 sp.s. c 13:** See notes following RCW 18.08.240.

**Effective date -- 1985 c 57:** See note following RCW 18.04.105.

**Severability -- 1982 c 10:** See note following RCW 6.13.080.

**Effective dates -- 1981 c 242:** See note following RCW 43.79.330.

**Effective dates -- 1981 c 219:** See note following RCW [43.33A.020](#).

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW [43.33A.010](#).

**RCW 43.33A.170****Commingled trust funds -- Participation of funds in investments of board.**

The state investment board is authorized to establish commingled trust funds in the state treasury for the implementation of specific investment programs for any combination of funds under its jurisdiction. At the discretion of the state investment board, the funds under the jurisdiction of the board may participate in the investments made by the board through state investment board commingled trust funds. The state investment board may establish accounts within any such commingled trust fund as necessary for the implementation of specific investment programs. The combining of moneys from funds located outside the state treasury with moneys from funds located within the state treasury for investment under this section shall not affect the nature, character, or purpose of a participating fund.

[1999 c 227 § 1; 1982 c 58 § 1.]

**RCW 43.33A.180****Investment accounting -- Transfer of functions and duties from state treasurer's office.**

The state investment board shall account for and report on the investments authorized by this chapter in

the manner prescribed by the office of financial management under chapter 43.88 RCW.

After approval of the director of financial management, all positions, reports, documents, and office equipment along with any appropriation necessary for carrying out the functions and duties transferred shall, on July 1, 1992, be transferred from the state treasurer's office to the state investment board. All employees assigned to such classified positions to be transferred, are assigned, without any loss of rights, to the state investment board.

[1992 c 232 § 905.]

#### **NOTES:**

**Severability -- 1992 c 232:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 232 § 911.]

#### **RCW 43.33A.190**

##### **Self-directed investment -- Board's duties.**

Pursuant to RCW 41.34.130, the state investment board shall invest all self-directed investment moneys under teachers' retirement system plan 3, the school employees' retirement system plan 3, and the public employees' retirement system plan 3 with full power to establish investment policy, develop investment options, and manage self-directed investment funds.

[2000 c 247 § 701; 1998 c 341 § 707; 1995 c 239 § 321.]

#### **NOTES:**

**Effective dates -- Subchapter headings not law -- 2000 c 247:** See RCW 41.40.931 and 41.40.932.

**Effective date -- 1998 c 341:** See note following RCW 41.34.060.

**Intent -- Purpose -- 1995 c 239:** See note following RCW 41.32.831.

**Effective date -- Part and subchapter headings not law -- 1995 c 239:** See notes following RCW 41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

#### **RCW 43.33A.200**

##### **Creation of entities for investment purposes--Liability--Tax status.**

(1) The board is authorized to create corporations under Title 23B RCW, limited liability companies under chapter 25.15 RCW, and limited partnerships under chapter 25.10 RCW, of which it may or may not be the general partner, for the purposes of transferring, acquiring, holding, overseeing, operating, or disposing of real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange. The liability of each entity created by the board is limited to the assets or properties of that entity. No creditor or other person has any right of action against the board, its members or employees, or the state of Washington on account of any debts, obligations, or liabilities of the entity. Entities created under this section may be authorized by the board to make any investment that the board



may make, including but not limited to the acquisition of: Equity interests in operating companies, the indebtedness of operating companies, and real estate.

(2) Directors, officers, and other principals of entities created under this section must be board members, board staff, or principals or employees of an advisor or manager engaged by contract by the board or the entity to manage real estate or other investment assets of the entity. Directors of entities created under this section must be appointed by the board. Officers and other principals of entities created under this section are appointed by the directors.

(3) A public corporation, limited liability company, or limited partnership created under this section has the same immunity or exemption from taxation as that of the state. The entity shall pay an amount equal to the amounts that would be paid for taxes otherwise levied upon real property and personal property to the public official charged with the collection of such real property and personal property taxes as if the property were in private ownership. The proceeds of such payments must be allocated as though the property were in private ownership.

[1997 c 359 § 1.]

#### **RCW 43.33A.210**

##### **Assets not publicly traded--Treatment of rent and income--Management accounts--Application of this chapter and chapter 39.58 RCW.**

Rent and other income from real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange that are acquired and being held for investment by the board or by an entity created under RCW [43.33A.200](#) by the board, and being managed by an external advisor or other property manager under contract, shall not be deemed income or state funds for the purposes of chapter 39.58 RCW and this title, until distributions are made to the board of such income from the advisor or manager. Bank and other accounts established by the advisor or property manager for the purpose of the management of such investment assets shall not be deemed accounts established by the state for the purpose of chapter 39.58 RCW and this title.

[1997 c 359 § 2.]

#### **RCW 43.33A.220**

##### **Emergency reserve fund -- Board's duties.**

Pursuant to RCW 43.135.051, the state investment board shall invest moneys in the emergency reserve fund established in chapter 43.135 RCW with full power to establish investment policies for the fund.

[1999 c 288 § 2.]

#### **NOTES:**

**Effective date -- 1999 c 288:** See note following RCW 43.135.051.

#### **RCW 43.33A.230**

##### **Basic health plan self-insurance reserve account -- Board duties and powers.**

(1) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the basic health plan self-insurance reserve account. All investment and operating costs associated with the investment of money shall be paid under RCW [43.33A.160](#) and 43.84.160.



With the exception of these expenses, the earnings from the investment of the money shall be retained by the account.

(2) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care under RCW [43.33A.140](#) and the investment policy established by the state investment board.

(3) As deemed appropriate by the investment board, money in the account may be commingled for investment with other funds subject to investment by the board.

(4) The investment board shall routinely consult and communicate with the health care authority on the investment policy, earnings of the account, and related needs of the account.

[2000 c 80 § 6.]

## **Chapter 43.84 RCW INVESTMENTS AND INTERFUND LOANS**

### **SECTIONS**

- 43.84.031 Management of permanent funds -- Procedural policies -- Limitation on purchase, sale or exchange prices for securities.
- 43.84.041 Management of permanent funds -- Disposition of securities.
- 43.84.051 Management of permanent funds -- Collection of interest, income and principal of securities -- Disposition.
- 43.84.061 Management of permanent funds in accordance with established standards.
- 43.84.080 Investment of current state funds.
- 43.84.092 Deposit of surplus balance investment earnings -- Treasury income account -- Accounts and funds credited.
- 43.84.095 Exemption from reserve fund -- Motor vehicle fund income from United States securities.
- 43.84.120 Investment in state warrants.
- 43.84.130 Separate accounting as to permanent school fund.
- 43.84.140 Investment of scientific school, agricultural college, and state university funds in regents' revenue bonds.
- 43.84.150 Authority of state investment board to invest, reinvest, manage investments acquired.
- 43.84.160 Investment counseling fees payable from earnings.
- 43.84.170 Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund.

### **NOTES:**

Community renewal bonds: RCW 35.81.110.

Federal home owner's loan corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

Firemen's pension board, investments by: RCW 41.16.040.

Highway construction bonds, investment in: Chapter 47.10 RCW.

Housing authority bonds, authorized as legal investments: RCW 35.82.220.

Industrial insurance funds: Chapter 51.44 RCW.

Investment accounting: RCW 43.33A.180.

Judicial retirement -- Investment for supplemental retirement: RCW 2.14.080.

Metropolitan municipal corporation obligations, authorized for public deposits: RCW 35.58.510.

Mutual savings banks, investments in state bonds: RCW 32.20.050.

Port district toll facility bonds and notes as legal investments: RCW 53.34.150.

Public utility district revenue obligations as legal investments: RCW 54.24.120.

School building construction bonds: Chapter 28A.525 RCW.

Schools and school districts' bonds, investment of permanent school fund in: State Constitution Art. 16 § 5.

Statewide city employees' retirement system funds: RCW 41.44.100.

United States corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

### **RCW 43.84.031**

#### **Management of permanent funds -- Procedural policies -- Limitation on purchase, sale or exchange prices for securities.**

Subject to the limitation of authority delegated by RCW [43.84.031](#) through [43.84.061](#) and RCW [43.84.150](#), the state investment board shall adopt procedural policies governing the management of said permanent trust funds.

[1981 c 3 § 17; 1973 1st ex.s. c 103 § 5; 1965 ex.s. c 104 § 3.]

#### **NOTES:**

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW 43.33A.010.

**Severability -- 1973 1st ex.s. c 103:** See note following RCW 2.10.080.

State investment board: Chapter 43.33A RCW.

### **RCW 43.84.041**

#### **Management of permanent funds -- Disposition of securities.**

All securities purchased or held on behalf of said funds, shall be held and disbursed through the state treasury and shall be in the physical custody of the state treasurer, who may deposit with the fiscal agent of the state, or with a state depository, such of said securities as he shall consider advisable to be held in safekeeping by said agent or bank for collection of principal and interest, or of the proceeds of sale thereof.

[1965 ex.s. c 104 § 4.]

### **RCW 43.84.051**

#### **Management of permanent funds -- Collection of interest, income and principal of securities -- Disposition.**

It shall be the duty of the state treasurer to collect the interest, or other income on, and the principal of the securities held in his or her custody pursuant to RCW [43.84.041](#) as the said sums become due and payable, and to pay the same when so collected into the respective funds to which the principal and interest shall accrue, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160.

[1991 sp.s. c 13 § 93; 1965 ex.s. c 104 § 5.]

## NOTES:

**Effective dates -- Severability -- 1991 sp.s. c 13:** See notes following RCW 18.08.240.

### RCW 43.84.061

#### **Management of permanent funds in accordance with established standards.**

Any investments made hereunder by the state investment board shall be made in accordance with the standards established in RCW 43.33A.140.

[1998 c 14 § 3; 1965 ex.s. c 104 § 6.]

### RCW 43.84.080

#### **Investment of current state funds.**

Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state treasurer may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient in the following defined securities or classes of investments:

- (1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;
- (2) In state, county, municipal, or school district bonds, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;
- (3) In motor vehicle fund warrants when authorized by agreement between the state treasurer and the department of transportation requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;
- (4) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;
- (5) Bankers' acceptances purchased on the secondary market;
- (6) Negotiable certificates of deposit of any national or state commercial or mutual savings bank or savings and loan association doing business in the United States: **PROVIDED**, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board;
- (7) Commercial paper: **PROVIDED**, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board.

[1982 c 148 § 1; 1981 c 3 § 18; 1979 ex.s. c 154 § 1; 1975 1st ex.s. c 4 § 1; 1971 c 16 § 1; 1967 c 211 § 1; 1965 c 8 § [43.84.080](#). Prior: 1961 c 281 § 11; 1955 c 197 § 1; 1935 c 91 § 1; RRS § 5508-1.]

**NOTES:**

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW 43.33A.010.

**Severability -- 1961 c 281:** See note following RCW 47.12.180.

Motor vehicle fund warrants for state highway acquisition: RCW 47.12.180 through 47.12.240.

**RCW 43.84.092**

**Deposit of surplus balance investment earnings -- Treasury income account -- Accounts and funds credited.**

**\*\*\* CHANGE IN 2003 \*\*\* (SEE 5374.SL) \*\*\***

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve

fund, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

[2002 c 242 § 2; 2002 c 114 § 24; 2002 c 56 § 402. Prior: 2001 2nd sp.s. c 14 § 608; (2001 2nd sp.s. c 14 § 607 expired

March 1, 2002); 2001 c 273 § 6; (2001 c 273 § 5 expired March 1, 2002); 2001 c 141 § 3; (2001 c 141 § 2 expired March 1, 2002); 2001 c 80 § 5; (2001 c 80 § 4 expired March 1, 2002); 2000 2nd sp.s. c 4 § 6; prior: 2000 2nd sp.s. c 4 § 5; (2000 2nd sp.s. c 4 §§ 3, 4 expired September 1, 2000); 2000 c 247 § 702; 2000 c 79 § 39; (2000 c 79 §§ 37, 38 expired September 1, 2000); prior: 1999 c 380 § 9; 1999 c 380 § 8; 1999 c 309 § 929; (1999 c 309 § 928 expired September 1, 2000); 1999 c 268 § 5; (1999 c 268 § 4 expired September 1, 2000); 1999 c 94 § 4; (1999 c 94 §§ 2, 3 expired September 1, 2000); 1998 c 341 § 708; 1997 c 218 § 5; 1996 c 262 § 4; prior: 1995 c 394 § 1; 1995 c 122 § 12; prior: 1994 c 2 § 6 (Initiative Measure No. 601, approved November 2, 1993); 1993 sp.s. c 25 § 511; 1993 sp.s. c 8 § 1; 1993 c 500 § 6; 1993 c 492 § 473; 1993 c 445 § 4; 1993 c 329 § 2; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

## NOTES:

**Reviser's note:** This section was amended by 2002 c 56 § 402, 2002 c 114 § 24, and by 2002 c 242 § 2, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Findings -- Intent -- 2002 c 242:** See note following RCW 43.160.085.

**Finding -- Intent -- 2002 c 114:** See RCW 47.46.011.

**Captions not law -- 2002 c 114:** See note following RCW 47.46.011.

**Captions and subheadings not law -- Severability -- 2002 c 56:** See RCW 36.120.900 and 36.120.901.

**Effective date -- 2001 2nd sp.s. c 14 § 608:** "Section 608 of this act takes effect March 1, 2002." [2001 2nd sp.s. c 14 § 611.]

**Expiration date -- 2001 2nd sp.s. c 14 § 607:** "Section 607 of this act expires March 1, 2002." [2001 2nd sp.s. c 14 § 610.]

**Severability -- Effective date -- 2001 2nd sp.s. c 14:** See notes following RCW 47.04.210.

**Effective date -- 2001 c 273 § 6:** "Section 6 of this act takes effect March 1, 2002." [2001 c 273 § 8.]

**Expiration date -- 2001 c 273 § 5:** "Section 5 of this act expires March 1, 2002." [2001 c 273 § 7.]

**Effective date -- 2001 c 141 § 3:** "Section 3 of this act takes effect March 1, 2002." [2001 c 141 § 6.]

**Expiration date -- 2001 c 141 § 2:** "Section 2 of this act expires March 1, 2002." [2001 c 141 § 5.]

**Purpose -- 2001 c 141:** "This act is needed to comply with federal law, which is the source of funds in the drinking water assistance account, used to fund the Washington state drinking water loan program as part of the federal safe drinking water act." [2001 c 141 § 1.]

**Effective date -- 2001 c 80 § 5:** "Section 5 of this act takes effect March 1, 2002." [2001 c 80 § 7.]

**Expiration date -- 2001 c 80 § 4:** "Section 4 of this act expires March 1, 2002." [2001 c 80 § 6.]

**Findings -- Intent -- 2001 c 80:** See note following RCW 43.70.040.

**Expiration date -- 2000 2nd sp.s. c 4 §§ 3 and 4:** "Sections 3 and 4 of this act expire September 1, 2000." [2000 2nd sp.s. c 4 § 37.]

**Effective date -- 2000 2nd sp.s. c 4 §§ 1-3 and 20:** See note following RCW 82.08.020.

**Effective dates -- 2000 2nd sp.s. c 4 §§ 4-10:** See note following RCW 43.89.010.

**Effective dates -- Subchapter headings not law -- 2000 c 247:** See RCW 41.40.931 and 41.40.932.

**Expiration date -- 2000 c 79 §§ 37 and 38:** "Sections 37 and 38 of this act expire September 1, 2000." [2000 c 79 § 49.]

**Effective dates -- 2000 c 79 §§ 26, 38, and 39:** See note following RCW 48.43.041.

**Severability -- 2000 c 79:** See note following RCW 48.04.010.

**Severability -- Effective date -- 1999 c 380:** See RCW 43.99P.900 and 43.99P.901.

**Expiration date -- 1999 c 309 § 928:** "Section 928 of this act expires September 1, 2000." [1999 c 309 § 930.]

**Effective dates -- 1999 c 309 §§ 927-929, 931, and 1101-1902:** See note following RCW 43.79.480.

**Severability -- 1999 c 309:** See note following RCW 41.06.152.

**Effective date -- 1999 c 268 § 5:** "Section 5 of this act takes effect September 1, 2000." [1999 c 268 § 7.]

**Expiration date -- 1999 c 268 § 4:** "Section 4 of this act expires September 1, 2000." [1999 c 268 § 6.]

**Expiration date -- 1999 c 94 §§ 2 and 3:** "Sections 2 and 3 of this act expire September 1, 2000." [1999 c 94 § 36.]

**Legislative finding -- 1999 c 94:** "The legislature finds that a periodic review of the accounts and their uses is necessary. While creating new accounts may facilitate the implementation of legislative intent, the creation of too many accounts limits the effectiveness of performance-based budgeting. Too many accounts also limit the flexibility of the legislature to address emerging and changing issues in addition to creating administrative burdens for the responsible agencies. Accounts created for specific purposes may no longer be valid or needed. Accordingly, this act eliminates accounts that are not in use or are unneeded and consolidates accounts that are similar in nature." [1999 c 94 § 1.]

**Effective dates -- 1999 c 94:** "(1) Sections 1, 2, 5 through 24, 29 through 31, and 33 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 1999.

(2) Section 4 of this act takes effect September 1, 2000.

(3) Sections 32 and 37 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect



June 30, 1999.

(4) Sections 3, 25 through 28, and 34 of this act take effect July 1, 2000." [1999 c 94 § 35.]

**Effective date -- 1998 c 341:** See RCW 41.35.901.

**Findings -- Effective date -- 1997 c 218:** See notes following RCW 70.119.030.

**Transportation infrastructure account -- Highway infrastructure account -- Finding -- Intent -- Purpose -- 1996 c 262:** See RCW 82.44.195.

**Effective date -- 1996 c 262:** See note following RCW 82.44.190.

**Effective date -- 1995 c 394:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 1995." [1995 c 394 § 3.]

**Declaration -- Intent -- Purpose -- 1995 c 122:** See RCW 59.21.006.

**Severability -- Effective date -- 1995 c 122:** See RCW 59.21.904 and 59.21.905.

**Severability -- Effective dates -- 1994 c 2 (Initiative Measure No. 601):** See RCW 43.135.903 and 43.135.904.

**Severability -- Effective dates -- Part headings, captions not law -- 1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Findings -- Intent -- 1993 sp.s. c 25:** See note following RCW 82.45.010.

**Effective date -- Application -- 1993 sp.s. c 8:** "This act shall take effect July 1, 1993, but shall not be effective for earnings on balances prior to July 1, 1993." [1993 sp.s. c 8 § 3.]

**Finding -- Severability -- Effective date -- 1993 c 500:** See notes following RCW 43.41.180.

**Findings -- Intent -- 1993 c 492:** See notes following RCW 43.20.050.

**Short title -- Severability -- Savings -- Captions not law -- Reservation of legislative power -- Effective dates -- 1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Effective date -- 1993 c 329:** See note following RCW 90.50A.020.

**Legislative declaration -- Effective date -- 1993 c 4:** See notes following RCW 47.56.770.

**Effective dates -- Severability -- 1991 sp.s. c 13:** See notes following RCW 18.08.240.

**Applicability -- 1990 2nd ex.s. c 1:** See note following RCW 82.14.050.

**Severability -- 1990 2nd ex.s. c 1:** See note following RCW 82.14.300.

**Intent -- Effective date -- 1989 c 419:** See notes following RCW 4.92.006.

**Effective date -- 1985 c 57:** See note following RCW 18.04.105.

### **RCW 43.84.095**

#### **Exemption from reserve fund -- Motor vehicle fund income from United States securities.**

Whenever moneys of the motor vehicle fund shall be invested in bonds, notes, bills or certificates of the United States treasury payable at par upon demand, or within a term not greater than one year, it shall not be necessary to place any portion of the income therefrom in the reserve fund provided for in \*RCW [43.84.090](#).

[1965 c 8 § [43.84.095](#). Prior: 1953 c 56 § 1.]

#### **NOTES:**

**\*Reviser's note:** RCW [43.84.090](#) was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

### **RCW 43.84.120**

#### **Investment in state warrants.**

Whenever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, and over and above the amount belonging to the permanent school fund as shown by the separation made by the state treasurer, the state treasurer may invest such portion of such funds or balances over and above that belonging to the permanent school fund in registered warrants of the state of Washington at such times and in such amounts, and may sell them at such times, as he deems advisable: PROVIDED, That those funds having statutory authority to make investments are excluded from the provisions of RCW [43.84.120](#).

Upon such investment being made, the state treasurer shall pay into the appropriate fund the amount so invested, and the warrants so purchased shall be deposited with the state treasurer, who shall collect all interest and principal payments falling due thereon and allocate the same to the proper fund or funds.

[1971 ex.s. c 88 § 4; 1965 c 8 § [43.84.120](#). Prior: 1951 c 232 § 2.]

#### **NOTES:**

**Severability -- 1971 ex.s. c 88:** See note following RCW 43.08.070.

### **RCW 43.84.130**

#### **Separate accounting as to permanent school fund.**

For the purposes of RCW [43.84.120](#) the state treasurer shall make and keep an accounting separation of the amount of cash balances in the state treasury belonging to the permanent school fund.

[1965 c 8 § [43.84.130](#). Prior: 1951 c 232 § 1.]

### **RCW 43.84.140**

#### **Investment of scientific school, agricultural college, and state university funds in regents' revenue bonds.**

The state investment board is authorized to invest moneys in the scientific school permanent fund and the agricultural college permanent fund in regents' revenue bonds issued by the board of regents of Washington State University for the purposes provided for in RCW 28B.10.300 and to invest moneys in the state university permanent fund in regents' revenue bonds issued by the board of regents of the University of Washington for the purposes provided in RCW 28B.10.300.

[1981 c 3 § 19; 1965 c 8 § 43.84.140. Prior: 1959 c 150 § 1.]

#### NOTES:

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW 43.33A.010.

#### RCW 43.84.150

##### **Authority of state investment board to invest, reinvest, manage investments acquired.**

Except where otherwise specifically provided by law, the state investment board shall have full power to invest, reinvest, manage, contract, or sell or exchange investments acquired. Investments shall be made in accordance with RCW 43.33A.140 and investment policy duly established and published by the state investment board.

[1998 c 14 § 4; 1981 c 98 § 1; 1981 c 3 § 20; 1979 c 119 § 3; 1977 ex.s. c 251 § 5; 1975-'76 2nd ex.s. c 17 § 2. Prior: 1975 1st ex.s. c 252 § 1; 1975 1st ex.s. c 81 § 1; 1973 1st ex.s. c 103 § 12.]

#### NOTES:

**Effective date -- 1981 c 98:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 98 § 2.]

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW 43.33A.010.

**Severability -- 1973 1st ex.s. c 103:** See note following RCW 2.10.080.

#### RCW 43.84.160

##### **Investment counseling fees payable from earnings.**

Investment counseling fees established by contract shall be payable from the investment earnings derived from those assets being managed by investment counsel.

[1973 1st ex.s. c 103 § 13.]

#### NOTES:

**Severability -- 1973 1st ex.s. c 103:** See note following RCW 2.10.080.

#### RCW 43.84.170

##### **Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund.**

Whenever there are surplus moneys available for investment in the permanent common school fund, the agricultural college permanent fund, the normal school permanent fund, the scientific school permanent

fund, or the university permanent fund, the state investment board has full power to invest or reinvest such funds in the manner prescribed by RCW [43.84.150](#), and not otherwise.

[1981 c 3 § 21; 1973 1st ex.s. c 103 § 14.]

## NOTES:

**Effective dates -- Severability -- 1981 c 3:** See notes following RCW 43.33A.010.

**Severability -- 1973 1st ex.s. c 103:** See note following RCW 2.10.080.

Agricultural permanent fund: RCW 43.79.130.

Normal school permanent fund: RCW 43.79.160.

Permanent common school fund: State Constitution Art. 9 § 3, RCW 28A.515.300.

Scientific permanent fund: RCW 43.79.110.

University permanent fund: RCW 43.79.060.



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## [TITLES](#)

### [Title 287 WAC](#) INVESTMENT BOARD, STATE

**Last Update: 12/19/97**

#### **Chapters**

[287-01](#) Board organization and administration.

[287-02](#) Public records.

[287-04](#) Conflict of interest.

[287-06](#) State Environmental Policy Act -- Interpretation.

**Chapter 287-01 WAC**  
**BOARD ORGANIZATION AND ADMINISTRATION**

**Last Update: 7/18/95**

**WAC SECTIONS**

287-01-030 Regular board meetings.

**WAC 287-01-030 Regular board meetings.** The regular meetings of the state investment board are held on the third Thursday of each month, beginning at 9:30 a.m. at the board's offices at 2424 Heritage Court S.W., Olympia, Washington 98504-0916.

[Statutory Authority: RCW 43.33A.110 and 43.33A.040(2). 95-15-080, § 287-01-030, filed 7/18/95, effective 8/18/95.]

## Chapter 287-02 WAC PUBLIC RECORDS

**Last Update: 11/10/81**

### WAC SECTIONS

- [287-02-010](#) Purpose.
- [287-02-020](#) Definitions.
- [287-02-030](#) Description of central and field organization of the state investment board.
- [287-02-040](#) Operations and procedures.
- [287-02-050](#) Public records available.
- [287-02-060](#) Public records officer.
- [287-02-070](#) Office hours.
- [287-02-080](#) Requests for public records.
- [287-02-090](#) Copying.
- [287-02-100](#) Exemptions.
- [287-02-110](#) Review of denials of public record requests.
- [287-02-120](#) Records index.
- [287-02-130](#) State investment board address.
- [287-02-140](#) Adoption of form.

**WAC 287-02-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the state investment board with the provisions of chapter 42.17 RCW dealing with public records.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-010, filed 11/10/81.]

**WAC 287-02-020 Definitions.** The following definitions shall apply to this chapter:

- (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.
- (2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.
- (3) "State investment board" means the board established by chapter 3, Laws of 1981. The state investment board shall hereinafter be referred to as the "board." Where appropriate, the term state investment board also refers to the staff and employees of the board.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-020, filed 11/10/81.]

**WAC 287-02-030 Description of central and field organization of the state investment board.** The state investment board is a state agency empowered to perform all duties prescribed by law with respect to the investment of trust and public funds. The administrative offices of the state investment board and its staff are located at 314 Insurance Building, Olympia, Washington.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-030, filed 11/10/81.]

**WAC 287-02-040 Operations and procedures.** The state investment board is charged with the duty to invest certain trust and public funds, as set forth in RCW 43.84.150, and chapter 3, Laws of 1981. The board shall meet at least quarterly, at times and locations determined by the board, in order to perform its duties. All such meetings will comply with the Open Meetings Act.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-040, filed 11/10/81.]

**WAC 287-02-050 Public records available.** All public records of the state investment board as defined in WAC [287-02-020](#) are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.370.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-050, filed 11/10/81.]

**WAC 287-02-060 Public records officer.** The state investment board's public records shall be in the charge of the public records officer designated by the agency. The person so designated shall be located in the administrative office of the agency. The public records officer shall be responsible for the following: The implementation of the state investment board's rules and regulations regarding release of public records, coordinating the staff of the committee in this regard and generally insuring compliance by the staff with the public records disclosures requirements of chapter 42.17 RCW.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-060, filed 11/10/81.]

**WAC 287-02-070 Office hours.** Public records shall be available for inspection and copying during the customary office hours of the state investment board. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday excluding legal holidays.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-070, filed 11/10/81.]

**WAC 287-02-080 Requests for public records.** In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the state investment board which shall be available at its administrative office. The form shall be presented to the public records officer, or to any member of the board's staff, if the public records officer is not available at the administrative office of the board during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the board's current index, and appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-080, filed 11/10/81.]

**WAC 287-02-090 Copying.** No fee shall be charged for the inspection of public records. The board



shall charge a fee for copying public records not to exceed 50 cents per page. This charge is the amount necessary to reimburse the board for its actual costs incident to such copying.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-090, filed 11/10/81.]

**WAC 287-02-100 Exemptions.** (1) The board reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 287-02-080 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260(1), the board reserves the right to delete identifying details when it makes available or publishes any public record, in any case when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-100, filed 11/10/81.]

**WAC 287-02-110 Review of denials of public record requests.** (1) Any person who objects to the denial of a request for a public record may petition for review of such decision by rendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the executive director of the board. The executive director shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the executive director has returned the petition with a decision or until the close of the second business day following the denial of inspection, whichever occurs first.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-110, filed 11/10/81.]

**WAC 287-02-120 Records index.** (1) Index. The board has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since May 1, 1981:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) Availability. The current index promulgated by the board shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-120, filed 11/10/81.]

**WAC 287-02-130 State investment board address.** All communications with the board including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules, requests for copies of the board's decisions and other matters, shall be addressed as follows: State Investment Board, c/o Public Records Officer, 314 Insurance Building, Olympia, Washington 98504.

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-130, filed 11/10/81.]

**WAC 287-02-140 Adoption of form.** The board hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form set out below entitled "Request for public record."

REQUEST FOR PUBLIC RECORD

Name of Requestor: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Date of Request: \_\_\_\_\_ Time of Request: \_\_\_\_\_

Nature of Request:

1. Index Reference . . . . .

2. If not identifiable by reference to the index, then describe the document(s) in detail . . . . .

.....

.....

.....

Signature . . . . .

For Office Use Only:

(1)	Request	Record	Record
	Granted <input type="checkbox"/>	Withheld	Withheld
		<input type="checkbox"/>	In Part <input type="checkbox"/>

(2) If withheld, name the exemption contained in RCW 42.17.310, which authorizes the withholding of the record or part of record.

(3) If withheld, briefly explain how the exemption applies to the record withheld.

(4) If request granted, time. . . . ., day. . . . .

[Statutory Authority: RCW 34.04.020(2), 42.17.250 and 42.17.260. 81-23-012 (Order 81-1), § 287-02-140, filed 11/10/81.]

## Chapter 287-04 WAC CONFLICT OF INTEREST

**Last Update: 12/19/97**

### WAC SECTIONS

[287-04-010](#) Promulgation.

[287-04-020](#) Purpose.

[287-04-029](#) Rules of conduct.

[287-04-031](#) Gifts.

[287-04-032](#) Personal investments.

[287-04-033](#) Additional prohibitions.

[287-04-034](#) Recusal.

[287-04-038](#) Definitions.

[287-04-039](#) Violation of code.

[287-04-040](#) Conflict of employment.

### DISPOSITIONS OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

287-04-030 Rules of conduct. [Statutory Authority: RCW 43.33A.110. 81-23-012 (Order 81-1), § 287-04-030, filed 11/10/81.] Repealed by 93-04-008, filed 1/22/93, effective 2/22/93. Statutory Authority: RCW 43.33A.110.

**WAC 287-04-010 Promulgation.** Pursuant to section 4, chapter 219, Laws of 1981 the board promulgates the following rules relating to conflict of interest and ethical conduct appropriate to the specific needs of the board.

[Statutory Authority: RCW 43.33A.110. 81-23-012 (Order 81-1), § 287-04-010, filed 11/10/81.]

**WAC 287-04-020 Purpose.** The board finds that the trusteeship and investment management of the state's trust and retirement funds demand the highest degree of confidence from the beneficiaries of the funds and the public in general, and the establishment of rules regarding conflict of interest and ethical conduct will promote and sustain public trust and maintain integrity in government.

[Statutory Authority: RCW 43.33A.110. 81-23-012 (Order 81-1), § 287-04-020, filed 11/10/81.]

**WAC 287-04-029 Rules of conduct.** WAC [287-04-031](#) through [287-04-039](#) are promulgated pursuant to RCW 43.33A.110 and 42.52.200 to ensure compliance with chapter 42.52 RCW (Ethics in public service) and the code of conduct, as adopted by the board. All employees of the board and board members must comply with the code of conduct.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-029, filed 12/19/97, effective 1/19/98.]

**WAC 287-04-031 Gifts.** (1) "Gifts" and "thing of economic value"

(a) No employee of the board or member of the board shall receive, accept, seek or solicit, directly or indirectly, any gift as defined in RCW 42.52.010(18) if such employee or member of the board has reason to believe that it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

(b) No employee of the board or member of the board shall accept gifts, except those specified in RCW 42.52.150 (2) and (5), with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources.

(c) Notwithstanding the above exception found in RCW 42.52.150 (2) and (5), a board member or an employee of the board who participates in the acquisition of goods and services cannot accept things of economic value from a person who seeks to provide goods or services to the board, except for those items specifically listed in RCW 42.52.150(4).

(2) No employee of the board or board member may accept honorarium under the circumstances set forth in RCW 42.52.130. An employee or board member may accept honorarium if all of the following are met:

(a) The employee or board member will not be carrying out their agency duties nor engaging in activity which focuses specifically on the board's responsibilities, policies or programs;

(b) The honorarium is not being offered because of the employee's or board member's official position in the board;

(c) The topic is such that it does not appear that the employee or board member could have used information acquired in the course of employment or membership on the board;

(d) The honorarium is not being offered by a person or entity which does business with or can reasonably be expected to seek business with the board; and

(e) No use of government time or resources was used by the employee or board member to produce the materials or prepare for the article, appearance, or item for which the honorarium is being given.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-031, filed 12/19/97, effective 1/19/98. Statutory Authority: RCW 43.33A.110. 95-15-081, § 287-04-031, filed 7/18/95, effective 8/18/95; 93-04-008, § 287-04-031, filed 1/22/93, effective 2/22/93.]

**WAC 287-04-032 Personal investments.** (1) The following definitions apply to this section:

(a) "Permissible investment" means any mutual fund or deposit account, certificate of deposit or money market fund maintained with a bank, broker, or other financial institution, any security publicly traded in an organized market if the interest in the security at acquisition is ten thousand dollars or less or an interest in real estate unless such interest involves a related party transaction.

(b) "Other investment" means any investment not defined as a permissible investment in (a) of this subsection.

(c) "Immediate family" includes the spouse, dependent children, other dependent relatives if living in the household and any other household member, whether or not related.

(2) Board members and employees may purchase "permissible investments" without prior approval.

(3) No employee of the board shall or shall permit any member of his or her immediate family to, purchase any "other investment," without the written prior approval of the executive director or his or her designee. The executive director shall not purchase or permit any member of his or her immediate family to purchase any "other investment," without the prior written approval of the chair or his or her designee who shall report to the board any approval granted or denied. No member of the board shall or shall permit any member of his or her immediate family to purchase any "other investment," without the prior written approval of the executive director or his or her designee, who shall report to the board any approval granted or denied.

(4) No employee of the board or board member shall participate in an LBO or venture capital IPO of which the board has an interest until such shares are available to the general public.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-032, filed 12/19/97, effective 1/19/98.]

**WAC 287-04-033 Additional prohibitions.** (1) No board member or employee shall borrow from investment managers, outside service providers, professional advisors or consultants, banks, or other financial institutions with which the board has a business relationship, except and unless such entities

are normally engaged in such lending in the usual course of their business, and then only on terms offered to others under similar circumstances.

(2) Confidential information shall be used solely for the board's purposes and under no circumstances revealed to unauthorized persons, except as may be otherwise required to be disclosed as a public record pursuant to the requirements of chapter 42.17 RCW. If a document is subject to disclosure pursuant to chapter 42.17 RCW, there is an affirmative duty to properly release the document upon request.

(3) No board member or employee shall divulge state agency or board information or proprietary information in the board's possession, whether labeled confidential or not, to any unauthorized person or in advance of the time prescribed for its authorized issuance, or otherwise making use of, or permitting others to make use of, information not available to the general public.

(4) No board member or employee shall use his or her position or employment with the board, or use board facilities, equipment, or supplies, to obtain or attempt to obtain private gain or advantage, either for themselves or for other persons.

(5) No board member or employee shall use his or her position or employment with the board, or use board facilities, equipment, or supplies, to assist another in a transaction involving the board, or use his or her influence over the board to obtain or attempt to obtain gain or advantage for the person or entity seeking to transact business with the board.

(6) No member of the board or its staff shall accept employment or engage in business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-033, filed 12/19/97, effective 1/19/98.]

**WAC 287-04-034 Recusal.** (1) A member or employee of the state investment board shall comply with subsection (2) of this section when the following circumstances apply or it is reasonably foreseeable that they will apply:

(a) The member or employee is beneficially interested, directly or indirectly, in an investment decision, investment agreement, contract, sale, lease, purchase, or any other acquisition or disposal of an asset, goods or services made by, through, or under the supervision of the board, in whole or in part; or

(b) The member or employee either owns a beneficial interest in, or is an officer, agent, employee or member of, an entity which is engaged in a transaction involving the board; or

(c) A member or employee accepts, directly or indirectly, any compensation, gratuity or reward from any other person beneficially interested in such investment decision, investment agreement, contract, sale, lease, purchase, or any other acquisition or disposal of assets, goods or services; or

(d) A member or employee's participation in a board discussion or vote is motivated by something other than the best interests of the board, its members and beneficiaries, in violation of that person's duty of loyalty.

(2)(a) If required by subsection (1) of this section, the member or employee shall:

(i) Recuse him or herself from discussions by the board, or any committee of the board, regarding the specific investment decision or other transaction; and

(ii) Recuse him or herself from any vote by the board, or any committee of the board, upon the specific investment decision or other transaction; and

(iii) Refrain from attempting to influence any other board member or employee in any discussion or vote regarding the specific investment decision or transaction.

(b) If recusal by a member or employee occurs pursuant to this subsection, the member or employee shall disclose to the public the reasons for his or her recusal from any board discussion or action at or prior to the time recusal occurs. The board staff shall record each such recusal and basis for the recusal.

(c) The prohibitions contained in this subsection do not prohibit the member or employee from using his or her general expertise to educate and provide general information on the subject area to other members or employees.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-034, filed 12/19/97, effective 1/19/98.]

**WAC 287-04-038 Definitions.** The following definitions apply to this chapter:

(1) "Transaction involving the board" means a proceeding, application, investment decision, investment agreement, contract, sale, lease, purchase or any other acquisition or disposal of any asset, goods or services, request for a ruling or other determination, claim, case or similar matter that the member or employee in question believes, or has reason to believe:

- (a) Is, or will be the subject of board action; or
- (b) Is one to which the board is or will be a party; or
- (c) Is one in which the board has a direct and substantial proprietary interest.

"Transaction involving the board" does not include the following: Preparation, consideration or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a member or employee; or a claim, case, lawsuit, or similar matter if the member or employee did not participate in the underlying transaction involving the board that is the basis for the claim, case or lawsuit. Rule making is not a "transaction involving the board."

(2) "Board action" means any action on the part of the board including, but not limited to:

- (a) A decision, determination, finding, ruling, or board order; and
- (b) An investment decision or approval of an investment decision, an investment contract or approval of an investment contract, any other contract or approval of such contract, or any other transaction or approval of such transaction, sanction, denial of a transaction or request, or failure to act with respect to a decision, determination, finding, ruling or order.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-038, filed 12/19/97, effective 1/19/98.]

**WAC 287-04-039 Violation of code.** (1) A board member or employee who is found by the board to have violated the code of conduct set forth in WAC [287-04-031](#) through [287-04-034](#) may be subject to official reprimand by vote of the board. In the event that the board determines a violation of the code to be so egregious or apparent as to constitute malfeasance, misfeasance, inefficiency, neglect of duty, incapacity, or unfitness to perform his or her fiduciary duties and responsibilities in the exclusive interest of the board and its beneficiaries, and if the offending person is:

- (a) A voting board member: The board, in its sole discretion, may refer the matter to the proper appointing authority or the attorney general, as deemed appropriate; or if
- (b) A nonvoting board member: The board, in its sole discretion, may take the appropriate steps necessary to and remove the offending member from the board; or if
- (c) The executive director: The board, in its sole discretion, may take the appropriate steps to remove the director in compliance with RCW 43.33A.100; or if
- (d) An employee of the board governed by the merit systems rules: The executive director may take such disciplinary action as authorized under Title 356 WAC up to and including termination of employment; or if
- (e) An exempt employee of the board: The executive director may take whatever disciplinary action deemed appropriate, up to and including termination of employment.

(2) The board may refer the alleged violation to the executive ethics board for further investigation as provided under RCW 42.52.360.

[Statutory Authority: RCW 43.33A.110 and 42.52.200. 98-01-138, § 287-04-039, filed 12/19/97, effective 1/19/98.]

**WAC 287-04-040 Conflict of employment.** No board or staff member shall accept employment which will adversely affect the performance of that member's official duties, discredit the board or result in a conflict of interest.

[Statutory Authority: RCW 43.33A.110. 81-23-012 (Order 81-1), § 287-04-040, filed 11/10/81.]

**Chapter 287-06 WAC**  
**STATE ENVIRONMENTAL POLICY ACT -- INTERPRETATION**

**Last Update: 11/10/81**

**WAC SECTIONS**

287-06-010 Exemption from provisions of WAC 197-10-800.

**WAC 287-06-010 Exemption from provisions of WAC 197-10-800.** The state investment board has reviewed its authorized activities and found them all to be exempt from the provisions of Title 197 WAC. This statement is adopted in compliance with the requirement that the board adopt guidelines consistent with Title 197 WAC.

[Statutory Authority: RCW 43.21C.120. 81-23-012 (Order 81-1), § 287-06-010, filed 11/10/81.]